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|---|---|--|-----------------------------------|-------------------------------|
| SOLICITATION, OFFER, AND AWARD <i>(Construction, Alteration, or Repair)</i> | 1. SOLICITATION NO. W912ER-10-R-0089 | 2. TYPE OF SOLICITATION <input type="checkbox"/> SEALED BID (IFB) <input checked="" type="checkbox"/> NEGOTIATED (RFP) | 3. DATE ISSUED 08-Sep-2010 | PAGE OF PAGES 1 OF 360 |
|---|---|--|-----------------------------------|-------------------------------|

IMPORTANT - The "offer" section on the reverse must be fully completed by offeror.

| | | |
|-----------------|-------------------------------------|----------------|
| 4. CONTRACT NO. | 5. REQUISITION/PURCHASE REQUEST NO. | 6. PROJECT NO. |
|-----------------|-------------------------------------|----------------|

| | |
|--|---|
| 7. ISSUED BY CODE W912ER US ARMY CORPS OF ENGINEERS-CETAM-CT MIDDLE EAST DISTRICT, CETAM-CT PO BOX 2250 WINCHESTER VA 22604-1450 TEL: FAX: | 8. ADDRESS OFFER TO <i>(If Other Than Item 7)</i> CODE <div style="text-align: center; font-weight: bold; padding: 10px;">See Item 7</div> TEL: FAX: |
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| | | |
|--------------------------|-------------------------------|--|
| 9. FOR INFORMATION CALL: | A. NAME MICHELLE R PEARMAN | B. TELEPHONE NO. <i>(Include area code) (NO COLLECT CALLS)</i> (540) 665-3673 |
|--------------------------|-------------------------------|--|

SOLICITATION

NOTE: In sealed bid solicitations "offer" and "offeror" mean "bid" and "bidder".

10. THE GOVERNMENT REQUIRES PERFORMANCE OF THE WORK DESCRIBED IN THESE DOCUMENTS *(Title, identifying no., date):*

This is a two-phase solicitation intended to provide for Indefinite Delivery/ Indefinite Quantity (ID/IQ) Multiple Award Task Order Contracts (MATOCs) for design-build and Construction projects in the U.S Central Command's (CENTCOM) Area of Responsibility (AOR) under which firm-fixed price (FFP) task orders may be issued.

This Phase One Solicitation requires no pricing submittal. CLIN schedule and project information will be provided in Phase Two. The Phase Two technical information provided in the solicitation is subject to change in Phase Two. However, the evaluation factors will remain unchanged.

The Contractor must furnish any required performance and payment bonds within 15 calendar days upon receipt of a task order award.

| | |
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| 11. The Contractor shall begin performance within _____ calendar days and complete it within _____ calendar days after receiving <input type="checkbox"/> award, <input checked="" type="checkbox"/> notice to proceed. This performance period is <input checked="" type="checkbox"/> mandatory, <input type="checkbox"/> negotiable. (See See Task Order _____.) | |
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|--|------------------------------|
| 12 A. THE CONTRACTOR MUST FURNISH ANY REQUIRED PERFORMANCE AND PAYMENT BONDS? <i>(If "YES," indicate within how many calendar days after award in Item 12B.)</i> <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO | 12B. CALENDAR DAYS 15 |
|--|------------------------------|

13. ADDITIONAL SOLICITATION REQUIREMENTS:

 A. Sealed offers in original and 3 copies to perform the work required are due at the place specified in Item 8 by 04:00 PM (hour) local time 07 Oct 2010 (date). If this is a sealed bid solicitation, offers must be publicly opened at that time. Sealed envelopes containing offers shall be marked to show the offeror's name and address, the solicitation number, and the date and time offers are due.

 B. An offer guarantee ☒ is, ☐ is not required.

 C. All offers are subject to the (1) work requirements, and (2) other provisions and clauses incorporated in the solicitation in full text or by reference.

 D. Offers providing less than 120 calendar days for Government acceptance after the date offers are due will not be considered and will be rejected.

| SOLICITATION, OFFER, AND AWARD (Continued) <i>(Construction, Alteration, or Repair)</i> | | | | | | | | | | |
|--|--|---------------------------------------|-----------|-------------|---|--|--|-------------------------------------|--|--|
| OFFER (Must be fully completed by offeror) | | | | | | | | | | |
| 14. NAME AND ADDRESS OF OFFEROR <i>(Include ZIP Code)</i> | | | | | 15. TELEPHONE NO. <i>(Include area code)</i> | | | | | |
| CODE FACILITY CODE | | | | | 16. REMITTANCE ADDRESS <i>(Include only if different than Item 14)</i> See Item 14 | | | | | |
| | | | | | 17. The offeror agrees to perform the work required at the prices specified below in strict accordance with the terms of this solicitation, if this offer is accepted by the Government in writing within _____ calendar days after the date offers are due. <i>(Insert any number equal to or greater than the minimum requirements stated in Item 13D. Failure to insert any number means the offeror accepts the minimum in Item 13D.)</i> | | | | | |
| AMOUNTS | | SEE SCHEDULE OF PRICES | | | | | | | | |
| 18. The offeror agrees to furnish any required performance and payment bonds. | | | | | | | | | | |
| 19. ACKNOWLEDGMENT OF AMENDMENTS <i>(The offeror acknowledges receipt of amendments to the solicitation -- give number and date of each)</i> | | | | | | | | | | |
| AMENDMENT NO. | | | | | | | | | | |
| DATE | | | | | | | | | | |
| 20A. NAME AND TITLE OF PERSON AUTHORIZED TO SIGN OFFER <i>(Type or print)</i> | | | | | 20B. SIGNATURE | | | 20C. OFFER DATE | | |
| AWARD (To be completed by Government) | | | | | | | | | | |
| 21. ITEMS ACCEPTED: | | | | | | | | | | |
| 22. AMOUNT | | 23. ACCOUNTING AND APPROPRIATION DATA | | | | | | | | |
| 24. SUBMIT INVOICES TO ADDRESS SHOWN IN <i>(4 copies unless otherwise specified)</i> | | | | ITEM | 25. OTHER THAN FULL AND OPEN COMPETITION PURSUANT TO <input type="checkbox"/> 10 U.S.C. 2304(c) <input type="checkbox"/> 41 U.S.C. 253(c) | | | | | |
| 26. ADMINISTERED BY | | | CODE | | 27. PAYMENT WILL BE MADE BY: CODE | | | | | |
| | | | | | | | | | | |
| CONTRACTING OFFICER WILL COMPLETE ITEM 28 OR 29 AS APPLICABLE | | | | | | | | | | |
| <input type="checkbox"/> 28. NEGOTIATED AGREEMENT <i>(Contractor is required to sign this document and return _____ copies to issuing office.)</i> Contractor agrees to furnish and deliver all items or perform all work, requisitions identified on this form and any continuation sheets for the consideration stated in this contract. The rights and obligations of the parties to this contract shall be governed by (a) this contract award, (b) the solicitation, and (c) the clauses, representations, certifications, and specifications or incorporated by reference in or attached to this contract. | | | | | <input type="checkbox"/> 29. AWARD <i>(Contractor is not required to sign this document.)</i> Your offer on this solicitation, is hereby accepted as to the items listed. This award consummates the contract, which consists of (a) the Government solicitation and your offer, and (b) this contract award. No further contractual document is necessary. | | | | | |
| 30A. NAME AND TITLE OF CONTRACTOR OR PERSON AUTHORIZED TO SIGN <i>(Type or print)</i> | | | | | 31A. NAME OF CONTRACTING OFFICER <i>(Type or print)</i> | | | | | |
| 30B. SIGNATURE | | | 30C. DATE | | TEL: EMAIL: | | | 31B. UNITED STATES OF AMERICA BY | | |
| | | | | | | | | 31C. AWARD DATE | | |

Section 00 11 00 - Standard Form (SF) 1442 and CLIN Schedule

EXECUTIVE SUMMARY

This is a two-phase solicitation intended to provide for Indefinite Delivery/Indefinite Quantity (ID/IQ) Multiple Award Task Order Contracts (MATOCs) for Design-Build and Construction projects in the U.S Central Command's (CENTCOM) Area of Responsibility (AOR) under which firm-fixed price (FFP) task orders may be issued.

This is Phase One of the two-phased procedure and requires no pricing submittal. Pricing information and project specific information will be provided in the Phase Two Amendment. Phase Two information is provided in this document for informational purposes only. The Phase Two information IS NOT a part of the Phase One submittal.

NAICS: 236220 Size Standard: \$33.5M

Offerors must be registered in CCR to be eligible for award. SEE FAR 52.204-7.

Blocks 11 and 12: As specified per Task Order

** Block 13B: See Section 00 21 00, Section 1.14 for Bid Guarantee requirement and Section 00 45 00, Contract Clause 52.228-1.

Reference Contract Clause Federal Acquisition Regulation (FAR) 52.236-1, Performance of Work by the Contractor and 52.219-14, Limitations on Subcontracting.

For purposes of this solicitation, an "Offeror" is defined as either a firm or a contractor team arrangement. A "Contractor team arrangement" is an arrangement in which (1) two or more companies form a partnership or joint venture to act as a potential prime contractor or (2) a potential prime contractor agrees with one or more other companies to have them act as its subcontractors under a specified Government contract or acquisition program (see FAR 9.6).

This solicitation will be evaluated under the Two Phase Process. In Phase One, interested Offerors submit certain specific performance capability proposals, demonstrating its capability to successfully execute the work resulting from this solicitation. The Government will evaluate the performance capability proposals in accordance with the criteria described in the solicitation and will select a target of fifteen (15) Phase One offerors to *compete* for the contract award and for the initial task order award(s) in Phase Two of the process. The Government reserves the right to select more than fifteen (15) offerors, less than fifteen (15) offerors, or none at all to move to Phase Two.

In Phase Two, the selected Offerors will submit proposals for each of two initial task orders, as described in the phase Two RFP amendment. The Government will evaluate the Phase Two proposals, in accordance with the criteria described for Phase Two in the solicitation, and award a base contract to the responsible Offerors, whose proposals conform with all the terms and conditions of the solicitation and whose proposals are determined to represent the overall best value to the government, considering technical-design quality, performance capability, and cost. This solicitation also includes two initial task orders which will also be awarded following selection and award of the MATOCs. The government will award the initial task order (s) to the offeror(s) whose proposal is determined to represent the best overall value to the Government. A MATOC awardee may be awarded none, one or both initial task orders. To meet the minimum guarantee, the Government anticipates awarding the initial task orders soon after contract award, unless funds are not available to award. In that case, the Government will award the contracts with the minimum guarantee. Remaining awardees will receive an Indefinite Delivery/Indefinite Quantity contract with a minimum guarantee.

The total estimated contract capacity is \$3,800,000,000. The Government intends to award a target of ten (10) contracts as a result of this solicitation. The performance period for each contract award will be an initial Base Period of two (2) years with up to 3 Option Periods of twelve (12) months each, for a total not to exceed contract period of 60 months. The Government reserves the right to award more than ten (10) contracts, less than ten (10) contracts, or none at all. The minimum guarantee will be \$10,000 for the entire contract ordering periods. In the event that no task orders are awarded under the contract, the minimum guarantee will be paid at the end of the

contract period of performance. The \$3.8B contract capacity is intended for the entire contract ordering period of performance; however, the Government reserves the right to use the entire \$3.8B capacity earlier than the five year ordering period of performance, if needed.

If it is in the best interest of the Government, the Middle East District may, at any time after initial awards, conduct an open season competition to add additional MATOC holders. The need for additional MATOC holders could be necessitated by one or more occurrences, such as a lack of adequate task order competition, original awardees exiting the pool, the need to enhance the pool of expertise for new task orders, or other cause as determined by the Contracting Officer.

****NOTE: PERIOD OF PERFORMANCE WILL BE ADDED AT TIME OF AWARD****

****CLINS ARE NOT TO BE FILLED IN BY OFFERORS. CLINS ARE FOR INFORMATIONAL PURPOSES ONLY AND FOR THE USE OF AWARDDING TASK ORDERS****

| ITEM NO | SUPPLIES/SERVICES | MAX QUANTITY | UNIT | UNIT PRICE | MAX AMOUNT |
|---------|--|-----------------|-------------|----------------|------------|
| 0001 | | UNDEFINED | Lump Sum | | |
| | Design Build Projects for 2 Year Base FFP FOB: Destination | | | | |
| | | | | MAX NET AMT | |

| ITEM NO | SUPPLIES/SERVICES | MAX QUANTITY | UNIT | UNIT PRICE | MAX AMOUNT |
|---------|---|-----------------|-------------|------------|------------|
| 0002 | Construction Only Projects for 2 Yr Base FFP FOB: Destination | UNDEFINED | Lump Sum | | |

MAX
NET AMT

| ITEM NO | SUPPLIES/SERVICES | MAX QUANTITY | UNIT | UNIT PRICE | MAX AMOUNT |
|---------|--|-----------------|-------------|------------|------------|
| 0003 | Defense Base Act (DBA) Insurance FFP DBA Insurance for CLINS 0001 and 0002. The amount listed by the offeror on these CLINs is the estimated DBA insurance premium (estimated payroll of the offeror and its subcontractors times the applicable rate(s)). The DBA insurance premium amount varies with payroll and the nature of services and will, therefore, be taken into account during price evaluation of offers. The actual amount paid by the government under this CLIN will be based on the amount of the Rutherford invoice, stamp "paid" and submitted by the offeror after contract award. In the event of recalculation of the premium by CNA based on actual payroll amounts, the contracting officer will adjust this CLIN by contract modification to reflect the actual premium amounts paid. FOB: Destination | UNDEFINED | Lump Sum | | |

MAX
NET AMT

| ITEM NO | SUPPLIES/SERVICES | MAX QUANTITY | UNIT | UNIT PRICE | MAX AMOUNT |
|---------|--|-----------------|------------------|----------------|------------|
| 0004 | Minimum Guarantee FFP The minimum guarantee for the two-year base and three one-year option periods of this IDIQ contract is \$10,000 and will be obligated against this contract line item at the time of the basic contract award, unless a Task Order is awarded at the same time as the basic IDIQ contract. FOB: Destination | UNDEFINED | Dollars, U.S. | | |
| | | | | | <hr/> |
| | | | | MAX NET AMT | |

| ITEM NO | SUPPLIES/SERVICES | MAX QUANTITY | UNIT | UNIT PRICE | MAX AMOUNT |
|---------|--|-----------------|-------------|----------------|------------|
| 1001 | | UNDEFINED | Lump Sum | | |
| OPTION | Option 1 - Design Build Projects FFP Design Build Projects for a period of 12 months FOB: Destination | | | | |
| | | | | | <hr/> |
| | | | | MAX NET AMT | |

| ITEM NO | SUPPLIES/SERVICES | MAX QUANTITY | UNIT | UNIT PRICE | MAX AMOUNT |
|---------|--|-----------------|-------------|------------|------------|
| 1002 | | UNDEFINED | Lump Sum | | |
| OPTION | Option 1 - Construction Only Projects FFP Construction Only Projects for a period of 12 months FOB: Destination | | | | |

MAX
NET AMT

| ITEM NO | SUPPLIES/SERVICES | MAX QUANTITY | UNIT | UNIT PRICE | MAX AMOUNT |
|---------|--|-----------------|-------------|------------|------------|
| 1003 | | UNDEFINED | Lump Sum | | |
| OPTION | Option 1 - DBA Insurance FFP DBA Insurance for CLINS 1001 and 1002. The amount listed by the offeror on these CLINs is the estimated DBA insurance premium (estimated payroll of the offeror and its subcontractors times the applicable rate(s)). The DBA insurance premium amount varies with payroll and the nature of services and will, therefore, be taken into account during price evaluation of offers. The actual amount paid by the government under this CLIN will be based on the amount of the Rutherford invoice, stamp "paid" and submitted by the offeror after contract award. In the event of recalculation of the premium by CNA based on actual payroll amounts, the contracting officer will adjust this CLIN by contract modification to reflect the actual premium amounts paid. FOB: Destination | | | | |

MAX
NET AMT

| ITEM NO | SUPPLIES/SERVICES | MAX QUANTITY | UNIT | UNIT PRICE | MAX AMOUNT |
|---------|--|-----------------|-------------|----------------|------------|
| 2001 | | UNDEFINED | Lump Sum | | |
| OPTION | Option 2 - Design Build Projects FFP Design Build Projects for a period of 12 months FOB: Destination | | | | |
| | | | | MAX NET AMT | |

| ITEM NO | SUPPLIES/SERVICES | MAX QUANTITY | UNIT | UNIT PRICE | MAX AMOUNT |
|---------|--|-----------------|-------------|----------------|------------|
| 2002 | | UNDEFINED | Lump Sum | | |
| OPTION | Option 2 - Construction Only Projects FFP Construction Only Projects for a period of 12 months FOB: Destination | | | | |
| | | | | MAX NET AMT | |

| ITEM NO | SUPPLIES/SERVICES | MAX QUANTITY | UNIT | UNIT PRICE | MAX AMOUNT |
|---------|-------------------|-----------------|-------------|------------|------------|
| 2003 | | UNDEFINED | Lump Sum | | |

OPTION Option 2 - DBA Insurance
FFP
DBA Insurance for CLINS 2001 and 2002. The amount listed by the offeror on these CLINs is the estimated DBA insurance premium (estimated payroll of the offeror and its subcontractors times the applicable rate(s)). The DBA insurance premium amount varies with payroll and the nature of services and will, therefore, be taken into account during price evaluation of offers. The actual amount paid by the government under this CLIN will be based on the amount of the Rutherford invoice, stamp "paid" and submitted by the offeror after contract award. In the event of recalculation of the premium by CNA based on actual payroll amounts, the contracting officer will adjust this CLIN by contract modification to reflect the actual premium amounts paid.
FOB: Destination

MAX
NET AMT

| ITEM NO | SUPPLIES/SERVICES | MAX QUANTITY | UNIT | UNIT PRICE | MAX AMOUNT |
|---------|-------------------|-----------------|-------------|------------|------------|
| 3001 | | UNDEFINED | Lump Sum | | |

OPTION Option 3 - Design Build Projects
FFP
Design Build Projects for a period of 12 months
FOB: Destination

MAX
NET AMT

| ITEM NO | SUPPLIES/SERVICES | MAX QUANTITY | UNIT | UNIT PRICE | MAX AMOUNT |
|---------|--|-----------------|-------------|------------|------------|
| 3002 | | UNDEFINED | Lump Sum | | |
| OPTION | Option 3 - Construction Only Projects FFP Construction Only Projects for a period of 12 months FOB: Destination | | | | |

MAX
NET AMT

| ITEM NO | SUPPLIES/SERVICES | MAX QUANTITY | UNIT | UNIT PRICE | MAX AMOUNT |
|---------|--|-----------------|-------------|------------|------------|
| 3003 | | UNDEFINED | Lump Sum | | |
| OPTION | Option 3 - DBA Insurance FFP DBA Insurance for CLINS 3001 and 3002. The amount listed by the offeror on these CLINs is the estimated DBA insurance premium (estimated payroll of the offeror and its subcontractors times the applicable rate(s)). The DBA insurance premium amount varies with payroll and the nature of services and will, therefore, be taken into account during price evaluation of offers. The actual amount paid by the government under this CLIN will be based on the amount of the Rutherford invoice, stamp "paid" and submitted by the offeror after contract award. In the event of recalculation of the premium by CNA based on actual payroll amounts, the contracting officer will adjust this CLIN by contract modification to reflect the actual premium amounts paid. FOB: Destination | | | | |

MAX
NET AMT

Section 00 21 00 - Instructions, Conditions and Notices to Offerors

INSTRUCTIONS TO OFFERORS

SECTION 00 21 00 (ID/IQ)

INSTRUCTIONS, CONDITIONS AND NOTICES TO OFFERORS

1.0 GENERAL INFORMATION

1.1 GENERAL DESCRIPTION OF WORK

1.2 CONTRACT COST CEILING LIMITATION FOR DESIGN AND CONSTRUCTION COSTS

1.3 GOVERNMENT SECURITY REQUIREMENTS

1.4 COPIES OF SOLICITATION DOCUMENTS AND AMENDMENTS

1.5 OFFEROR'S QUESTIONS AND COMMENTS

1.6 SMALL BUSINESS SIZE STANDARD/NAICS CODE

1.7 PROPOSAL EXPENSES AND PRE-CONTRACT COSTS

1.8 PRE-PROPOSAL CONFERENCE

1.9 ACCURACY IN PROPOSALS

1.10 PROPOSAL SUBMITTALS

1.11 PROPOSAL FORMAT

1.12 JOINT VENTURE PROPOSAL REQUIREMENTS

1.13 SUBCONTRACTING PLAN/ SUBCONTRACTING GOALS REGARDING THE UTILIZATION OF U.S. SMALL/LOCAL FOREIGN BUSINESS CONCERNS

1.14 BID GUARANTEE

1.15 CONTRACT PRICES - BIDDING SCHEDULE (PHASE TWO ONLY)

1.16 ORGANIZATIONAL CONFLICT OF INTEREST

| | | |
|------------------|--|----------|
| 52.214-34 | Submission Of Offers In The English Language | APR 1991 |
| 52.214-35 | Submission Of Offers In U.S. Currency | APR 1991 |
| 52.215-1 | Instructions to Offerors--Competitive Acquisition | JAN 2004 |
| 52.215-20 Alt IV | Requirements for Cost or Pricing Data or Information Other Than Cost or Pricing Data (Oct 1997) - Alternate IV | OCT 1997 |
| 52.216-1 | Type Of Contract | APR 1984 |
| 52.217-5 | Evaluation Of Options | JUL 1990 |
| 52.233-2 | Service Of Protest | SEP 2006 |
| 52.236-27 | Site Visit (Construction) | FEB 1995 |
| 52.236-28 | Preparation of Proposals--Construction | OCT 1997 |
| 52.252-1 | Solicitation Provisions Incorporated By Reference | FEB 1998 |

252.236-7010

Overseas Military Construction--Preference for United States Firms

JAN 1997

1.0 GENERAL INFORMATION

These MATOCs will be awarded by the USACE, Huntsville Engineering and Support Center (CEHNC), on behalf of the Transatlantic Division (CETAD) and the Middle East District (CETAM), and technically managed by CETAM, under its respective mission established by Headquarters, U.S. Army Corps of Engineers (HQUSACE). CEHNC will transfer the contracts to a successor contracting officer at CETAM, once awarded.

The CENTCOM AOR includes Kuwait, Qatar, United Arab Emirates, Yemen, Saudi Arabia, Egypt, Kazakhstan, Lebanon, Oman, Pakistan, Turkmenistan, Kyrgyzstan, Syria, Jordan, Iran, Bahrain, Uzbekistan, Tajikistan, Afghanistan, and Iraq. Almost all CENTCOM AOR countries are involved to some degree in U.S. Overseas Contingency Operations (OCO) in the region. While 100% of the projects will be at locations in the CENTCOM AOR and not in the United States or its outlying areas, approximately 72% of the projects currently envisioned for these proposed MATOCs are expected to be performed in Afghanistan or Iraq, for construction and design-build projects required by U.S. Military customers.

Due to the cultural, social, religious, and economic conditions in the CENTCOM AOR, security, logistics, transportation, and base access issues can present substantial challenges for inexperienced contractors. Therefore, Offerors should be knowledgeable and experienced with these issues to be successful under this MATOC.

Task orders anticipated for these proposed MATOCs are generally expected to range from approximately \$ 20 Million to \$ 100 Million, but we anticipate no more than 5% of the total MATOCs programmatic capacity will be used for task orders outside of this range. These proposed MATOCs are expected to support two broad types of construction and design-build projects. Examples of project types for this acquisition include: Housing/Barracks, Dining Facilities, Equipment/Vehicle Maintenance Facilities, Operations Facilities, Administrative/ Headquarters Facilities, Command and Control Facilities, Communications Centers, Fire Stations, Waste Management Complexes, Training Facilities, Medical Facilities (Clinic/Hospital), Fuel Storage Facilities, Fuel Distribution and Storage Systems, Munitions Storage, Power Plants, Utilities Infrastructure, Reception, Staging and Onward Integration (RSOI) Facilities/Areas, Entry/Access Control Points, Cargo Handling Areas, Perimeter Fence and Guard Towers, Road Construction, Airfields: (Runways/Taxiways/Aprons/Ramps), Airfield Support Facilities: (Hangars/Control Towers/etc.), Passenger/Cargo Terminals, Drainage System Projects, Water Treatment Facilities.

1.1. GENERAL DESCRIPTION OF WORK

This solicitation is for a multiple award Indefinite Delivery/Indefinite Quantity (ID/IQ) Contracts for Design/Build and Construction of facilities supporting US forces in the U.S. Central Command (CENTCOM) Area of Operations (AOR). Individual design/build or construction efforts will be awarded by task order. This solicitation also includes two initial task orders which will also be awarded.

1.1.1. Task Order

The scope of the initial task orders includes all work required to design-build or construct the projects identified. The work shall be in accordance with the Request for Proposal documents issued with the initial task orders.

Task Order Competition - Once all the MATOCs are awarded, task orders will be awarded against the basic ID/IQ contracts using the fair opportunity procedures discussed in FAR 16.5 in addition to the competitive source selection procedures identified in Section 863 of Public Law 107-107 and implemented in DFARS 216.505-70. Each order exceeding \$3,000.00 will be awarded on a competitive basis in accordance with FAR 16.505 and DFARS 216.505-70 (c), unless an exception described in FAR 16.505(b)(2)(i) through (iv) or DFARS 216.505-70(b)(1) applies. The unique selection criteria for each task order award will be provided in the task order request for proposal. However, the typical evaluation criteria utilized at the task order level is expected to be:

- 1) Technical approach (resourcing plan, personnel qualifications, regulatory interface relationships, alternate language and cultural requirements, work plan acceptance, clear understanding of work

- requirements, geographic experience, technical approach, technical competency, and/or overall strategy for work execution – some or all will be used in each task order competition as determined necessary),
- 2) Subcontracting Plan Addendum (for US large business) is only applicable for that portion of the work contemplated to be performed in the US.
- 3) Utilization of U.S. Small/Local Foreign Business Plan Addendum is required for all awardees.
- 4) Price/price-related factors.

The evaluation will be conducted in strict accordance with the selection criteria identified in the task order request for proposal documents and documented in accordance with local policy and procedures.

TASK ORDER PROCEDURES

(1) All multiple award contractors will be provided a fair opportunity to be considered for each task order unless the Contracting Officer determines that:

(a) The Government's need for the supplies or services is so urgent that providing a fair opportunity to all contractors would result in unacceptable delays;

(b) Only one of the contractors is capable of providing the supplies or services required at the level of quality required because the supplies or services ordered are unique or highly specialized;

(c) The task order must be issued on a sole source basis in the interest of economy and efficiency as a logical follow-on to an order already issued under the contract, provided that all awardees were given a fair opportunity to be considered for the original order; or

(d) It is necessary to place an order to satisfy a minimum guarantee.

(2) In those instances that meet one or more of the non-competitive exceptions in subparagraph (1) above, the Contracting Officer will issue a task order scope of work, as detailed as circumstances and the situation allow, requesting a complete and detailed price proposal from the given contractor. The contractor involved shall provide the Contracting Officer a detailed price proposal. A price proposal shall address to the extent practicable:

(a) The comprehensive technical and management approach to accomplish the task order work along with a draft scope of work, where appropriate, prepared by the contractor as its recommendation on how that work is to proceed;

(b) Detailed cost or pricing in accordance with the instruction set forth in the Task Order and FAR 15.403-5;

(c) Proposed schedule for completing the task order effort;

(d) Any other requested and/or pertinent information.

(3) When a price proposal is received in accordance with subparagraph (2) above, the Contracting Officer and the government's technical and pricing representatives will evaluate that proposal, conduct discussions/negotiations if necessary, settle a price and award the task order.

(4) Contractors will be provided as fair an opportunity as possible to be considered for those task order requirements that do not fall within any non-competitive exception detailed in subparagraph (1). The Contracting Officer may make deviations to this process as circumstances dictate. All proposals will be requested from contractors based upon a Statement of Work that has been either furnished by the Government or prepared by a contractor and approved by the Government.

(5) The Government will reserve the right to award task orders without prior discussions. Unsuccessful offerors will be notified in accordance with FAR 15.503(b). The two processes for competitive actions are as follows:

(a) Competitive – Streamlined Process: The Government shall issue a task order scope of work describing specific work to be performed, the performance period required, and critical milestones involved. Based on this task order scope of work involved, the contractor will provide work plans within five workdays or as otherwise stated in the scope of work. The following information shall be included unless indicated otherwise: (i) A maximum of five pages outlining the Contractor's concept of approach to satisfy the Government's technical and performance requirements; (ii) a price proposal in the level of detail sufficient to enable analysis by the Government, or a Rough Order of Magnitude (ROM) Performance Estimate including the Contractor's total ROM cost of the project with fee rate identified, whichever method is specified by the Contracting Officer; (iii) the estimated period of performance, labor skill mix with the estimate of hours to complete the task and other cost factors, i.e. materials, subcontracts, etc.; and (iv) other documents or submissions required in the task order scope of work. The Government will evaluate the Contractor's submissions, the Contractor's past performance on this and other task orders, and the price proposal or ROM cost estimate, whichever was specified. Based on the Government's evaluation, the selected contractor will be requested to submit an original and specified numbers of copies of a complete, detailed proposal. This final proposal shall address: (i) The comprehensive technical and management approach to accomplish the work; (ii) Cost and pricing information to support the estimated cost for each task order; (iii) Proposed schedule for completing the task order effort; and (iv) Any other requested and/or pertinent information that has been requested by the Contracting Officer. Upon proposal receipt, the Contracting Officer and Government's technical representatives, will evaluate the submission, conduct discussion/negotiations if necessary and award the task order.

(b) Competitive – Full Process: The Government shall issue all contractors a task order scope of work describing specific work and dates items are required, anticipated performance period, and critical milestones that describes the overall task order performance requirement. The Contractors shall provide the Contracting Officer an original and copies (as specified) of a complete, detailed proposal as already outlined above. Upon proposal receipt, the Contracting Officer and Technical Representatives will review all proposals, conduct discussions as determined necessary by the Contracting Officer, and make award consistent with the evaluation criteria set out in each Task Order Request for Proposal (RFP). Under the provisions of the Federal Acquisition Streamlining Act of 1994, 10 U.S.C. 2304 (c) (Public Law 103-355), a protest is not authorized in connection with the issuance or proposed issuance of an individual task order except for a protest on the grounds that the order increased the scope, period, or maximum value of the contract under which the order is issued.

(c) Task Order Ombudsman: The Task Order ombudsman is responsible for reviewing complaints from multiple award contractors and ensuring that all of the contractors are afforded a fair opportunity to be considered for Task Orders consistent with procedures in the contract. However, it is not within the designated Task Order contract ombudsman's authority to prevent the issuance of an order or disturb an existing order. The designated Task Order ombudsman for this contract is PARC-WIN, 255 Fort Collier Road, Winchester, VA 22601.

1.2. CONTRACT COST CEILING LIMITATION FOR DESIGN AND CONSTRUCTION COSTS

The Contract Cost Limitation (CCL) will be provided with the Request for Proposals (RFPs) for each individual task order requirement in Section 00 73 10 as applicable. It is the Government's intent to award at full scope within the CCL.

1.3. GOVERNMENT SECURITY REQUIREMENTS

The Offeror(s) must ensure that ALL mail sent to the US Army Corps of Engineers, Middle East District, 201 Prince Frederick Drive, Winchester, VA 22602 or PO Box 2250, Winchester, VA 22604-1450, has a return mailing address on the outside of the envelope, package, box, etc. ANY MAIL addressed to the U.S. Army Corps of Engineers, including but not limited to bids, modifications to bids, proposals, revised proposals, bonds, correspondence, etc., will be REJECTED by the US Army Corps of Engineers facility located at 201 Prince

Frederick Drive, Winchester, VA 22602 or PO Box 2250 Winchester, VA 22604-1450, if it does not contain a return mailing address. There will be no exceptions.

1.4. COPIES OF SOLICITATION DOCUMENTS AND AMENDMENTS

The Phase One Request for Proposal (RFP) will be posted on FedBizOpps. However, the Phase Two RFP amendment will only be available to offerors which have participated in the Phase One evaluation and have been selected to progress to phase two. The Government will post the Phase Two RFP amendment to a file transfer protocol (ftp) site and be password protected. Each firm will be provided with the log on information to access the ftp site.

The offeror shall submit in its proposal all required information specified in this solicitation as amended. There will be no public opening of the proposals received as a result of this solicitation.

A list of interested vendors (potential offerors and subcontractors) is available on the federal business opportunities web site (registration required) at: <http://www.fbo.gov/> via Quick Search (Solicitation No. W912ER-10-R-0089).

1.5. OFFEROR'S QUESTIONS AND COMMENTS

1.5.1. All questions and/or comments relative to these documents should be submitted via Bidder Inquiry in ProjNet at <http://www.projnet.org/projnet> no later than September 27, 2010, in order that they may be given consideration or actions taken prior to receipt of offers.

1.5.2. To submit and review bid inquiry items, a bidder will need to be a current registered user or will need to self-register into system. To self-register go to web page, click BID tab, select Bidder Inquiry, select agency USACE, enter Key for this solicitation listed below, and your e-mail address, click login. Fill in all required information and click "create user." Verify that information on next screen is correct and click "continue."

1.5.3. From this page you may view all bidder inquiries and/or add an inquiry.

1.5.4. Bidder will receive an acknowledgement of its question via email, followed by an answer to its question after it has been processed by our technical team.

1.5.5. The Solicitation Number is: W912ER-10-R-0089

1.5.6. The Bidder Inquiry Key is: IMMWD1-XPGU4L

1.5.7. The Bidder Inquiry System will be unavailable for new inquiries 5 days prior to proposal submission in order to ensure adequate time is allotted to form an appropriate response and amend the solicitation, if necessary.

1.5.8. Offerors are requested to review the solicitation in its entirety and review the Bidder Inquiry System for answers to questions prior to submission of a new inquiry.

1.5.9. The call center operates weekdays from 8AM to 5PM U.S. Central Time Zone (Chicago). The telephone number for the Call Center is 800-428-4357.

1.5.10. Offers will NOT be publicly opened. Substantive information concerning the status of the evaluation and/or award will NOT be available after receipt of proposals.

1.6. SMALL BUSINESS SIZE STANDARD/NAICS CODE

See Section 00 45 00, FAR 52.204-8 for the small business size standard/NAICS Code.

1.7. PROPOSAL EXPENSES AND PRE-CONTRACT COSTS

The Government will not pay, as a direct charge, any costs incurred in the preparation and submission of a proposal.

1.8. PRE-PROPOSAL CONFERENCE

The Government intends to hold the pre-proposal conference at the Millwood Station Special Events Center, 252 Costello Drive, Winchester, VA 22602 on Wednesday September 15, 2010. Doors will open for sign-in no later than 8:00 AM, the presentations will begin at 8:30 AM, and the conference is expected to be completed around 12:00 PM. The offeror must submit in writing, via fax or e-mail, the firm's name, address, point of contact, telephone number, and number of personnel planning to attend. Those interested in attending are highly encouraged to register no later than September 12, 2010 via MED's Pre Proposal Conference website at <http://www.tam.usace.army.mil/MATOC-2010>.

All interested offerors are urged to attend. During this conference, the requirements set forth in the solicitation will be reviewed and discussed in detail, with part of the conference to include a question and answer period.

1.9. ACCURACY IN PROPOSALS

Proposals must set forth full, accurate, and complete information as required by this RFP (including attachments). The penalty for making false statements is prescribed in 18 U.S.C. 1001.

1.10. PROPOSAL SUBMITTALS

NOTE: E-mailed and FAX proposals are not authorized and will not be accepted.

As stated on Standard Form SF 1442: Phase One Proposals will be received until 1600 local time on October 7, 2010 at:

(a) Proposals may be sent by courier (DHL, Federal Express, etc) or hand delivered at the following address:

U.S. Army Corps of Engineers
Middle East District
Solicitation W912ER-10-R-0089
Attn: Michelle Pearman – CETAM-CT-R
201 Prince Frederick Drive
Winchester, VA 22602
Phone 540-665-3673

(b) Proposals may be mailed to:

U.S. Army Corps of Engineers
Middle East District
Solicitation W912ER-10-R-0089
Attn: Michelle Pearman – CETAM-CT-R
Post Office Box 2250
Winchester, VA 22604-1450
Phone 540-665-3673

(c) For hand carried proposals we must be notified and given the name of the person who will actually deliver the proposal so the guards and warehouse can be notified.

If the person delivering the package is a U.S. citizen and can show proof of citizenship, the guards will direct them to the warehouse where the proposal will be accepted. Therefore, we need the name of the person, the name of the company, and approximate time.

If the person delivering the package is not a U.S. citizen then they cannot access the site.

(d) Email or fax proposals will not be accepted.

(e) Proposals will be considered late if not received at the physical location by the deadline due date and time.

(f) The Packaging that contains the Proposals shall be marked:

”Proposals for Solicitation Number: W912ER-10-R-0089, DO NOT OPEN”

1.11. PROPOSAL FORMAT

a. Each volume shall be clearly identified. All pages of each volume shall be appropriately numbered and identified by solicitation number in the header and/or footer. Proposal documents other than graphs, charts, cover sheets, and Price and Related Information shall use the following page setup parameters:

- i. Margins – Top, Bottom, Left, Right - 1”
- ii. Gutter – 0”
- iii. From Edge – Header, Footer - 0.5”

b. Page Limitations:

| | | |
|------|---|----------------|
| I. | Past Performance (Phase One) | no page limits |
| II. | Specialized Experience (Phase One) | 15 pages |
| III. | Financial Surety (Phase One) | no page limits |
| IV. | Organizational and Management/Technical Approach (Phase Two) | 35 pages |
| V. | Utilization of U.S. Small/Local Foreign Business Concerns (Phase Two) | no page limits |
| VI. | Price and Related Information (Phase Two) | no page limits |

c. Page Size, Width – 8.5”, Height – 11”, or A4 size.

d. Necessary charts and graphics may be larger than 8.5" x 11", but no larger than 11" x 17", and will count as one page. Charts and graphics should only contain the minimal text required to interpret the graphic (such as a concise caption or a map legend). Inclusion of excessive text on a graphic in an attempt to circumvent the page limitation will cause the graphic to be counted as more than one page.

e. The following additional restrictions apply: Each paragraph shall be separated by at least one blank line. A standard, 12-point minimum font size applies. Arial or Times New Roman fonts are required. Tables and illustrations may use a reduced font size of not less than 8-point and may be landscape oriented. The use of hyperlinks in proposals is prohibited.

- f. Written materials should be submitted in 3-ring binders (except that Pro Forma material and price proposal shall be submitted in a sealed manila envelope. Each binder should contain a Title Sheet on the cover for ready identification of the proposal and a full table of contents, and sections separated by Tabs, as prescribed herein.
- g. All price/cost breakdown information included to aide in the price/cost evaluation, shall be submitted in the format provided in Microsoft Office Excel compatible Read/Write format and viewable in Microsoft Office Excel 2007 (see Attachment 6). Files shall not contain classified data.
 - (i) The Offeror's name, address, a signature(s) of the official(s) that can bind the firm and a telephone number should appear in the lower left corner of the title page of any document/volume to be evaluated. Title pages will not be counted toward page limits.
 - (ii) Volume number, section and date submitted should appear in the bottom right corner of each page (along with the revision number for the amended page, if necessary).
- h. Drawing sheets: Offerors should Use 22" x 34" or half sheets for full size drawings.
- i. Electronic Format: Provide one (1) CD in read-only format, using .pdf files. All price breakdown information to aide in the price evaluation shall be submitted in Microsoft Office Excel Read/Write format and viewable in Microsoft Excel 2007. Each disc should be externally labeled with the volume number, date and the Offeror's name. Offerors are responsible for including sufficient details to permit a complete and accurate evaluation of each proposal. Proprietary information shall be clearly marked. Files shall not contain classified information or data. If the hard-copy proposal differs from the electronic version, the hard copy will govern.
- j. Number of copies: Submit one original and three (3) copies of drawings and printed matter (Bound Volumes), as well as one (1) CD. For Pro Forma information required in Phase Two: Submit the original and one copy and one (1) separate CD.

1.12. JOINT VENTURE PROPOSAL REQUIREMENTS

When proposing as a joint venture, all members of the joint venture shall sign the SF 1442 and the financial surety instrument unless a written agreement by the joint venture is furnished with the proposal designating one firm with the authority to bind the other member(s) of the joint venture. In addition, a copy of the joint venture agreement shall be submitted with the proposal. Failure to comply with the foregoing requirements may eliminate the proposal from further consideration. If this is an 8(a) or HUBZone joint venture, the offeror shall ensure that it complies with the applicable requirements of 13 CFR Part 124 and 13 CFR Part 126, respectively.

1.13. SUBCONTRACTING PLAN/SUBCONTRACTING GOALS REGARDING THE UTILIZATION OF U.S. SMALL/LOCAL FOREIGN BUSINESS CONCERNS

(a) Application. This clause applies to all offerors submitting proposals.

(b) Federal Acquisition Regulations (FAR). Attention is directed to the following FAR and DFARS provisions contained in this solicitation:

52.219-8, Utilization of Small Business Concerns (DEVIATION)

52.219-9, Small Business Sub Contracting Plan (DEVIATION) (applies only to U.S. Large Businesses)

52.219-16, Liquidated Damages – Small Business Subcontracting Plan (applies only to U.S. Large Businesses)

(c) Goals. The Department of Defense considers the following goals reasonable and achievable for the performance of the resultant contract for work subcontracted within the United States: The goals listed below are the FY10 goals. Regarding subcontracting goals, for this MATOC, the term “contract value” means the dollar value of subcontracted work performed in the United States. The goals are updated each year and the appropriate goals will be updated by amendment and in task orders.

(1) 37.1 % of subcontracted work performed in the U.S., should be performed with U.S. small business concerns.

(2) 3.0 % of subcontracted work performed in the U.S., should be performed with those U.S. small business concerns owned and controlled by HUBZones.

(3) 3.0% of subcontracted work performed in the U.S., should be performed with those U.S. small business concerns owned and controlled by Service-Disabled Veterans.

(4) 5.0 % of subcontracted work performed in the U.S., should be performed with those U.S. small business concerns owned and controlled by socially and economically disadvantaged individuals.

(5) 5.0 % of subcontracted work performed in the U.S., should be performed with those U.S. small business concerns owned and controlled by women.

1.14. BID GUARANTEE

A Bid Guarantee is not required for the Phase One proposal submission. A Bid Guarantee will be required for each initial Task Order in Phase Two. In accordance with 52.228-1, the amount of the bid guarantee shall be 20% percent of the bid price or \$3 million, whichever is less. Bid guarantees shall bear original signatures. Photocopies or facsimiles are unacceptable.

1.15. CONTRACT PRICES - BIDDING SCHEDULE (PHASE TWO ONLY)

Payment for the various items listed in the Bidding Schedule shall constitute full compensation for furnishing all plant, labor, equipment, appliances, materials and bonds (performance and payment), and for performing all operations required to complete the work in conformity with the drawings and specifications. All costs for work not specifically mentioned in the Bidding Schedule shall be included in the contract prices for the items listed.

See DFARS 252.236-7009. However, include the cost for performance and payment bonds or irrevocable letters of credit.

1.16 ORGANIZATIONAL CONFLICTS OF INTEREST

Contracts awarded as a result of this solicitation are subject to the organizational and consultant conflicts of interest rules identified in FAR 9.5. There may be circumstances resulting in the performance of work under the prospective contracts which create an actual or potential conflict of interest on a contract or the nature of the work to be performed on the contract(s) creates an actual or potential conflict of interest on a future acquisition. See clause, “Organizational Conflicts of Interest” in Section 00 73 00 for requirements pertaining to this acquisition.

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52.214-34 SUBMISSION OF OFFERS IN THE ENGLISH LANGUAGE (APR 1991)

Offers submitted in response to this solicitation shall be in the English language. Offers received in other than English shall be rejected.

(End of provision)

CLAUSES INCORPORATED BY FULL TEXT

52.214-35 SUBMISSION OF OFFERS IN U.S. CURRENCY (APR 1991)

Offers submitted in response to this solicitation shall be in terms of U.S. dollars. Offers received in other than U.S. dollars shall be rejected.

(End of provision)

CLAUSES INCORPORATED BY FULL TEXT

52.215-1 INSTRUCTIONS TO OFFERORS--COMPETITIVE ACQUISITION (JAN 2004)

(a) Definitions. As used in this provision--

“Discussions” are negotiations that occur after establishment of the competitive range that may, at the Contracting Officer's discretion, result in the offeror being allowed to revise its proposal.

“In writing or written” means any worded or numbered expression which can be read, reproduced, and later communicated, and includes electronically transmitted and stored information.

“Proposal modification” is a change made to a proposal before the solicitation's closing date and time, or made in response to an amendment, or made to correct a mistake at any time before award.

“Proposal revision” is a change to a proposal made after the solicitation closing date, at the request of or as allowed by a Contracting Officer as the result of negotiations.

“Time”, if stated as a number of days, is calculated using calendar days, unless otherwise specified, and will include Saturdays, Sundays, and legal holidays. However, if the last day falls on a Saturday, Sunday, or legal holiday, then the period shall include the next working day.

(b) Amendments to solicitations. If this solicitation is amended, all terms and conditions that are not amended remain unchanged. Offerors shall acknowledge receipt of any amendment to this solicitation by the date and time specified in the amendment(s).

(c) Submission, modification, revision, and withdrawal of proposals. (1) Unless other methods (e.g., electronic commerce or facsimile) are permitted in the solicitation, proposals and modifications to proposals shall be submitted

in paper media in sealed envelopes or packages (i) addressed to the office specified in the solicitation, and (ii) showing the time and date specified for receipt, the solicitation number, and the name and address of the offeror. Offerors using commercial carriers should ensure that the proposal is marked on the outermost wrapper with the information in paragraphs (c)(1)(i) and (c)(1)(ii) of this provision.

(2) The first page of the proposal must show--

(i) The solicitation number;

(ii) The name, address, and telephone and facsimile numbers of the offeror (and electronic address if available);

(iii) A statement specifying the extent of agreement with all terms, conditions, and provisions included in the solicitation and agreement to furnish any or all items upon which prices are offered at the price set opposite each item;

(iv) Names, titles, and telephone and facsimile numbers (and electronic addresses if available) of persons authorized to negotiate on the offeror's behalf with the Government in connection with this solicitation; and

(v) Name, title, and signature of person authorized to sign the proposal. Proposals signed by an agent shall be accompanied by evidence of that agent's authority, unless that evidence has been previously furnished to the issuing office.

(3) Submission, modification, or revision, of proposals.

(i) Offerors are responsible for submitting proposals, and any modifications, or revisions, so as to reach the Government office designated in the solicitation by the time specified in the solicitation. If no time is specified in the solicitation, the time for receipt is 4:30 p.m., local time, for the designated Government office on the date that proposal or revision is due.

(ii)(A) Any proposal, modification, or revision received at the Government office designated in the solicitation after the exact time specified for receipt of offers is "late" and will not be considered unless it is received before award is made, the Contracting Officer determines that accepting the late offer would not unduly delay the acquisition; and--

(1) If it was transmitted through an electronic commerce method authorized by the solicitation, it was received at the initial point of entry to the Government infrastructure not later than 5:00 p.m. one working day prior to the date specified for receipt of proposals; or

(2) There is acceptable evidence to establish that it was received at the Government installation designated for receipt of offers and was under the Government's control prior to the time set for receipt of offers; or

(3) It is the only proposal received.

(B) However, a late modification of an otherwise successful proposal that makes its terms more favorable to the Government, will be considered at any time it is received and may be accepted.

(iii) Acceptable evidence to establish the time of receipt at the Government installation includes the time/date stamp of that installation on the proposal wrapper, other documentary evidence of receipt maintained by the installation, or oral testimony or statements of Government personnel.

(iv) If an emergency or unanticipated event interrupts normal Government processes so that proposals cannot be received at the office designated for receipt of proposals by the exact time specified in the solicitation, and urgent Government requirements preclude amendment of the solicitation, the time specified for receipt of proposals will be deemed to be extended to the same time of day specified in the solicitation on the first work day on which normal Government processes resume.

(v) Proposals may be withdrawn by written notice received at any time before award. Oral proposals in response to oral solicitations may be withdrawn orally. If the solicitation authorizes facsimile proposals, proposals may be withdrawn via facsimile received at any time before award, subject to the conditions specified in the provision at 52.215-5, Facsimile Proposals. Proposals may be withdrawn in person by an offeror or an authorized representative, if the identity of the person requesting withdrawal is established and the person signs a receipt for the proposal before award.

(4) Unless otherwise specified in the solicitation, the offeror may propose to provide any item or combination of items.

(5) Offerors shall submit proposals in response to this solicitation in English, unless otherwise permitted by the solicitation, and in U.S. dollars, unless the provision at FAR 52.225-17, Evaluation of Foreign Currency Offers, is included in the solicitation.

(6) Offerors may submit modifications to their proposals at any time before the solicitation closing date and time, and may submit modifications in response to an amendment, or to correct a mistake at any time before award.

(7) Offerors may submit revised proposals only if requested or allowed by the Contracting Officer.

(8) Proposals may be withdrawn at any time before award. Withdrawals are effective upon receipt of notice by the Contracting Officer.

(d) Offer expiration date. Proposals in response to this solicitation will be valid for the number of days specified on the solicitation cover sheet (unless a different period is proposed by the offeror).

(e) Restriction on disclosure and use of data. Offerors that include in their proposals data that they do not want disclosed to the public for any purpose, or used by the Government except for evaluation purposes, shall--

(1) Mark the title page with the following legend: This proposal includes data that shall not be disclosed outside the Government and shall not be duplicated, used, or disclosed--in whole or in part--for any purpose other than to evaluate this proposal. If, however, a contract is awarded to this offeror as a result of--or in connection with-- the submission of this data, the Government shall have the right to duplicate, use, or disclose the data to the extent provided in the resulting contract. This restriction does not limit the Government's right to use information contained in this data if it is obtained from another source without restriction. The data subject to this restriction are contained in sheets [insert numbers or other identification of sheets]; and

(2) Mark each sheet of data it wishes to restrict with the following legend: Use or disclosure of data contained on this sheet is subject to the restriction on the title page of this proposal.

(f) Contract award. (1) The Government intends to award a contract or contracts resulting from this solicitation to the responsible offeror(s) whose proposal(s) represents the best value after evaluation in accordance with the factors and subfactors in the solicitation.

(2) The Government may reject any or all proposals if such action is in the Government's interest.

(3) The Government may waive informalities and minor irregularities in proposals received.

(4) The Government intends to evaluate proposals and award a contract without discussions with offerors (except clarifications as described in FAR 15.306(a)). Therefore, the offeror's initial proposal should contain the offeror's best terms from a cost or price and technical standpoint. The Government reserves the right to conduct discussions if the Contracting Officer later determines them to be necessary. If the Contracting Officer determines that the number of proposals that would otherwise be in the competitive range exceeds the number at which an efficient competition can be conducted, the Contracting Officer may limit the number of proposals in the competitive range to the greatest

number that will permit an efficient competition among the most highly rated proposals.

(5) The Government reserves the right to make an award on any item for a quantity less than the quantity offered, at the unit cost or prices offered, unless the offeror specifies otherwise in the proposal.

(6) The Government reserves the right to make multiple awards if, after considering the additional administrative costs, it is in the Government's best interest to do so.

(7) Exchanges with offerors after receipt of a proposal do not constitute a rejection or counteroffer by the Government.

(8) The Government may determine that a proposal is unacceptable if the prices proposed are materially unbalanced between line items or subline items. Unbalanced pricing exists when, despite an acceptable total evaluated price, the price of one or more contract line items is significantly overstated or understated as indicated by the application of cost or price analysis techniques. A proposal may be rejected if the Contracting Officer determines that the lack of balance poses an unacceptable risk to the Government.

(9) If a cost realism analysis is performed, cost realism may be considered by the source selection authority in evaluating performance or schedule risk.

(10) A written award or acceptance of proposal mailed or otherwise furnished to the successful offeror within the time specified in the proposal shall result in a binding contract without further action by either party.

(11) If a post-award debriefing is given to requesting offerors, the Government shall disclose the following information, if applicable:

(i) The agency's evaluation of the significant weak or deficient factors in the debriefed offeror's offer.

(ii) The overall evaluated cost or price and technical rating of the successful and the debriefed offeror and past performance information on the debriefed offeror.

(iii) The overall ranking of all offerors, when any ranking was developed by the agency during source selection.

(iv) A summary of the rationale for award.

(v) For acquisitions of commercial items, the make and model of the item to be delivered by the successful offeror.

(vi) Reasonable responses to relevant questions posed by the debriefed offeror as to whether source-selection procedures set forth in the solicitation, applicable regulations, and other applicable authorities were followed by the agency.

(End of provision)

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52.215-20 REQUIREMENTS FOR COST OR PRICING DATA OR INFORMATION OTHER THAN COST OR PRICING DATA (OCT 1997)—ALTERNATE IV (OCT 1997)

(a) Submission of cost or pricing data is not required.

(b) Provide information described below: **TO BE ADDRESSED IN TASK ORDERS**

(End of provision)

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52.216-1 TYPE OF CONTRACT (APR 1984)

The Government contemplates award of a **Firm Fixed Price Indefinite Delivery/Indefinite Quantity** contracts resulting from this solicitation.

(End of provision)

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52.217-5 EVALUATION OF OPTIONS (JUL 1990)

Except when it is determined in accordance with FAR 17.206(b) not to be in the Government's best interests, the Government will evaluate offers for award purposes by adding the total price for all options to the total price for the basic requirement. Evaluation of options will not obligate the Government to exercise the option(s).

(End of provision)

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52.233-2 SERVICE OF PROTEST (SEP 2006)

- (a) Protests, as defined in section 33.101 of the Federal Acquisition Regulation, that are filed directly with an agency, and copies of any protests that are filed with the Government Accountability Office (GAO), shall be served on the Contracting Officer (addressed as follows) by obtaining written and dated acknowledgment of receipt from

By Mail:

**U.S. ARMY CORPS OF ENGINEER
MIDDLE EAST DISTRICT
CONTRACTING OFFICER
ATTN: CT-R (Lisle E. Lennon)
PO BOX 2250
WINCHESTER, VA 22604-1450**

Or Via Courier:

**CONTRACTING OFFICER
U.S. ARMY CORPS OF ENGINEER
MIDDLE EAST DISTRICT
ATTN: CT-R (Lisle E. Lennon)**

201 PRINCE FREDERICK DRIVE
WINCHESTER, VA 22602

(b) The copy of any protest shall be received in the office designated above within one day of filing a protest with the GAO.

(End of provision)

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52.236-27 SITE VISIT (CONSTRUCTION) (FEB 1995)

(a) The clauses at 52.236-2, Differing Site Conditions, and 52.236-3, Site Investigations and Conditions Affecting the Work, will be included in any contract awarded as a result of this solicitation. Accordingly, offerors or quoters are urged and expected to inspect the site where the work will be performed.

(b) Site visits may be arranged during normal duty hours by contacting: **TO BE DETERMINED AT TASK ORDER LEVEL**

Name:

Address:

Telephone:

(End of provision)

CLAUSES INCORPORATED BY FULL TEXT

52.236-28 PREPARATION OF PROPOSALS--CONSTRUCTION (OCT 1997)

(a) Proposals must be (1) submitted on the forms furnished by the Government or on copies of those forms, and (2) manually signed. The person signing a proposal must initial each erasure or change appearing on any proposal form.

(b) The proposal form may require offerors to submit proposed prices for one or more items on various bases, including--

(1) Lump sum price;

(2) Alternate prices;

(3) Units of construction; or

(4) Any combination of paragraphs (b)(1) through (b)(3) of this provision.

(c) If the solicitation requires submission of a proposal on all items, failure to do so may result in the proposal being rejected without further consideration. If a proposal on all items is not required, offerors should insert the words "no

proposal” in the space provided for any item on which no price is submitted.

(d) Alternate proposals will not be considered unless this solicitation authorizes their submission.

(End of provision)

CLAUSES INCORPORATED BY FULL TEXT

52.252-1 SOLICITATION PROVISIONS INCORPORATED BY REFERENCE (FEB 1998)

This solicitation incorporates one or more solicitation provisions by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. The offeror is cautioned that the listed provisions may include blocks that must be completed by the offeror and submitted with its quotation or offer. In lieu of submitting the full text of those provisions, the offeror may identify the provision by paragraph identifier and provide the appropriate information with its quotation or offer. Also, the full text of a solicitation provision may be accessed electronically at this/these address(es):

FAR at <http://www.arnet.gov/far/index.html>

DFARS at <http://farsite.hill.af.mil/VFDFARA.HTM>

EFARS at <http://www.usace.army.mil/CECT/Pages/EFARS.aspx>

(End of provision)

CLAUSES INCORPORATED BY FULL TEXT

252.236-7010 OVERSEAS MILITARY CONSTRUCTION-PREFERENCE FOR UNITED STATES FIRMS (JAN 1997)

(a) Definition.

"United States firm," as used in this provision, means a firm incorporated in the United States that complies with the following:

(1) The corporate headquarters are in the United States;

(2) The firm has filed corporate and employment tax returns in the United States for a minimum of 2 years (if required), has filed State and Federal income tax returns (if required) for 2 years, and has paid any taxes due as a result of these filings; and

(3) The firm employs United States citizens in key management positions.

(b) Evaluation. Offers from firms that do not qualify as United States firms will be evaluated by adding 20 percent to the offer.

(c) Status. The offeror ____ is, ____ is not a United States firm.

Section 00 22 10 - Phase 1 of a 2 Phase-Design Build Selection Procedures

PHASE I

SECTION 00 22 10 (ID/IQ)

PHASE ONE OF TWO PHASE SELECTION PROCEDURES

1.0 OVERVIEW

2.0 GENERAL INSTRUCTIONS

3.0 PHASE ONE PROPOSAL AND RELATED EVALUATION FACTORS

4.0 TAB A – STANDARD FORM 1442 AND PROPOSAL DATA SHEET

5.0 TAB B – FACTOR 1 – PAST PERFORMANCE

5.1 SUBMISSION REQUIREMENTS

5.2 EVALUATION CRITERIA

6.0 TAB C – FACTOR 2 – SPECIALIZED EXPERIENCE

6.1 SUBMISSION REQUIREMENTS

6.2 EVALUATION CRITERIA

7.0 TAB D – FACTOR 3 – FINANCIAL SURETY

7.1 SUBMISSION REQUIREMENTS

7.2 EVALUATION CRITERIA

8.0 TAB E - RESPONSIBILITY

8.1 SUBMISSION REQUIREMENTS

8.2 EVALUATION CRITERIA

9.0 PHASE ONE EVALUATION PROCEDURES

9.1 SOURCE SELECTION EVALUATION BOARD (SSEB)

9.2 EVALUATION

9.3 EVALUATION AND RATING SYSTEM

9.4 DEFINITIONS

9.5 PAST PERFORMANCE RISK RATINGS

PHASE ONE – SECTION 00 22 10 ATTACHMENTS

1 – PROPOSAL DATA SHEETS

2 – OFFEROR SPECIALIZED EXPERIENCE

3 – LETTER OF COMMITMENT

4 – PAST PERFORMANCE EVALUATION TELEPHONE INTERVIEW QUESTIONNAIRE

1.0 OVERVIEW

1.1. The Government is looking for ways to streamline construction, and manage labor and other resource constraints in an effort to reduce costs and achieve an aggressive schedule in executing task orders to meet the program goals of faster project execution at lower cost, while taking advantage of industry standards, means and methods. In Phase One of the two phase selection procedure, offerors shall submit proposals, demonstrating their capability to successfully execute design-build and construction task orders under the contract resulting from this solicitation. In Phase One, the Government will evaluate the offeror's qualifications in accordance with the criteria described in Section, 00 22 10 and will short-list a target of fifteen (15) Phase One offerors to *compete* for the base ID/IQ contract award and for the initial task order award(s) in Phase Two of the process. The Government reserves the right to select more than fifteen (15) offerors, less than fifteen (15) offerors, or none at all to move to Phase Two.

1.2. In Phase Two, selected offerors will be required to submit technical and price proposals in accordance with the Phase Two price and non-price evaluation factors. The Government contemplates awarding a target of ten ID/IQ contracts to responsible offerors whose offers conform to the solicitation and are considered to be most advantageous to the Government, price and other factors considered in accordance with FAR clause 52.215-1, Instructions to Offerors-Competitive Acquisition. However, the Government reserves the right to award more, less, or none at all. A selected firm(s) will be awarded an IDIQ contract and may be awarded one or both initial task orders; or an IDIQ contract but no initial task order(s).

2.0 GENERAL INSTRUCTIONS

Submit the Phase One proposal in a tabbed, three-ring binder. Note that the Government will not evaluate any material that exceeds the page limits. PHASE ONE DOES NOT INVOLVE PRICING SUBMISSION. All information shall be confined to the appropriate Tab. The Offeror shall confine submissions to essential matters, sufficient to define the proposal and provide adequate basis for evaluation. Offerors are responsible for including sufficient details, in a concise manner, to permit a complete and accurate evaluation of each proposal.

3.0 PHASE ONE PROPOSAL AND RELATED EVALUATION FACTORS

| <u>Location</u> | <u>Factor Number</u> | <u>Description</u> | <u>Relative Importance</u> |
|-----------------|----------------------|--------------------|----------------------------|
|-----------------|----------------------|--------------------|----------------------------|

| | | | |
|-------|----------|---------------------------------|---------------------------------|
| Tab A | N/A | SF 1442 and proposal Data Sheet | N/A |
| Tab B | Factor 1 | Past Performance | Approximately equal to Factor 2 |
| Tab C | Factor 2 | Specialized Experience | Approximately equal to Factor 1 |
| Tab D | Factor 3 | Financial Surety | Go or No-Go |
| Tab E | N/A | Responsibility | Notice Only |

4.0 TAB A - STANDARD FORM 1442 AND PROPOSAL DATA SHEET

4.1. Submit the SF 1442, completed and signed by a person authorized by the Offeror. Include the completed proposal data sheet (See Attachment 1, provided at the end of this Section).

5.0 TAB B – FACTOR 1 – PAST PERFORMANCE

5.1. SUBMISSION REQUIREMENTS:

5.1.1. Past performance is an indicator of an offeror's ability to perform the contract successfully. The Offeror and the design firm (or Offeror if design is be self-performed) shall provide customer reference name(s), company affiliation, current phone numbers, and email addresses on the specific project experience sheets in Tab B or other projects that establish an offeror's past performance. If an offeror has multiple divisions or units, limit the projects submitted to those performed by the division, unit or team member submitting the offer. Projects cited shall be currently well underway (fully designed and at least 50% construction progress completed) or construction substantially completed within six (6) years preceding the date of this solicitation. The Government may contact and interview the points of contact provided by the offeror and reserves the right to interview other individuals with relevant information. See the sample questionnaire shown at Attachment 4. Relevant types of project (roughly \$ 20 million or more) past performance include, but are not limited to: Design-Build/Construction of: housing/barracks; dining facilities; equipment/vehicle maintenance facilities; operations facility; administrative/headquarters facility; command and control facility; communications center; fire station; waste management complex; training facility; medical facility (clinic/hospital); fuel storage facility; fuel distribution and storage system; munitions storage; power plants; utilities infrastructure; reception, staging and onward integration facilities/areas; entry/access control points; cargo handling areas; perimeter fence and guard towers; road construction; airfields; airfield support facilities; passenger/cargo terminals; drainage system projects; and water treatment facilities in geographically disbursed, OCONUS locations performed in remote, rugged, or austere environments to include combat theaters of operation. Furthermore, the Government reserves the right to interview other individuals if the point of contact is not available. The Offeror shall briefly provide information on problems encountered on identified projects and any corrective action. The Offeror shall also submit the written consent of its design firm/key subcontractors to allow the disclosure of the design firm/key subcontractor's past performance information to the Offeror. For the design firm's past performance to be considered, the Offeror shall include a letter of commitment from that firm (see Attachment 3 at

the end of this section), unconditionally committing the design firm's performance under this contract should it be awarded to the Offeror.

5.1.2. In addition, all Offerors shall submit information substantiating the offeror's past performance in complying with FAR 52.219-8 "Utilization of Small Business", maximizing opportunities for U.S. small business concerns, and establishing procedures that ensured timely payment of U.S. small business subcontractors. Offerors shall also provide a statement indicating whether any negative information has been reported in the past six years concerning the Offeror's past compliance with FAR 52.219-8. If any such negative information has been reported, the Offeror may submit explanations or comments responding to such negative information. Offerors with no prior contracts containing FAR 52.219-8 shall certify the same.

5.2. EVALUATION CRITERIA:

5.2.1. The Government will complete a performance risk assessment based upon the quality of the offeror's past performance as it relates to the probability of successful accomplishment of the required effort. Performance risks are those associated with an Offeror's likelihood of success in performing the solicitation's requirements as indicated by that Offeror's record of past performance. The Government will consider the recency and relevancy of the performance information, source of the information, context of the data, and general trends in contractor performance. If any offeror wishes to submit past performance information of any of its divisions or units, it must submit convincing evidence that the referenced division or unit will be committed to performing work under the MATOC. The Offeror and proposed design firm (if applicable) will be assessed in their totality to derive the offeror's Past Performance rating.

Customers/references may be asked to comment on items such as quality of design or construction; timeliness, management of the work; subcontractor management, including timely payment to subs or suppliers; safety; relations between customer and designer or contractor; level of support for such things as as-built documentation; O&M manuals; training; correcting design or construction errors; warranty work; etc. The Government will not release the Past Performance Evaluation – Telephone Interview Forms to the Offeror at any time, in order for the Government to solicit candid, unbiased interview comments, however an offeror will be provided an opportunity to address any past performance information that adversely impacts its evaluation, if it has not had a previous opportunity to do so. The Government places a high value on performance with documented successful outcomes which can be verified, for example, by telephone interviews with points of contact identified in the proposal, CCASS/ACASS or other agency performance databases, Offeror furnished references, or personal knowledge of Government personnel. The Government also places a high value on performance of projects, which provided particularly difficult or unique challenges and on the innovative methods the contractor used to resolve problems successfully. The Government's evaluation is not limited to past performance information on the cited example projects.

The Government may base its judgment about the quality of an offeror's past performance on (1) records of objective measurements and subjective ratings of specified performance attributes, if available, and (2) statements of

opinion about the quality of specific aspects of an offeror's performance, or about the quality of an offeror's overall performance. The offeror is cautioned that in conducting the performance risk assessment, the Government may use data provided in the offeror's proposal and data obtained from other sources. Since the Government may not necessarily obtain information on all of the listed contract references and/or may not contact all of the identified POCs provided by the offeror, it is incumbent upon the offeror to explain the relevance of the data provided. The Government may elect to consider data obtained from sources other than those identified by the offeror. In the event that adverse past performance information is obtained from other sources, the offeror will be provided the opportunity to respond to any adverse information received which it had not had a previous opportunity to comment.

5.2.2. Offerors (a) for whom compliance with FAR 52.219-8 has been established; and/or (b) for whom no negative information has been reported; or (c) certifying no past history of contracts containing FAR 52.219-8 will be rated as "complying with FAR 52.219-8." Such a rating shall have neither positive nor negative impact on the Offeror's overall Past Performance evaluation. Offerors for whom negative information has been reported shall have such negative information, along with any explanations or comments responding to such negative information supplied by the Offeror, evaluated in accordance with the evaluation criteria for Past Performance. Such evaluation shall be substantiated and factored into the Offeror's overall Past Performance evaluation.

5.2.3. Each Offeror will be rated on its own performance or that of its predecessor, if relevant. An Offeror may not establish past performance based on the past performance of its proposed key personnel. Offerors that have no past performance record will be given an "Unknown Risk" rating. If the Government does not obtain past performance information and cannot establish a past performance record for the Offeror through other sources, past performance will be rated neither favorably nor unfavorably. The performance risk will be considered "unknown".

6.0 TAB C – FACTOR 2 - SPECIALIZED EXPERIENCE

6.1 SUBMISSION REQUIREMENTS

6.1.1 The Offeror's experience will be examined for a breadth and depth of work performed in the design-build and construction of large projects (roughly \$ 20 million or more), in geographically disbursed, OCONUS locations performed in remote, rugged, or austere environments to include combat theaters of operation. The successful Offeror should possess demonstrated experience performing design-build and construction projects including new construction, and the alteration, renovation, conversion, and/or reconfiguration of existing facilities including vertical and, horizontal construction. Relevant types of project experience include, but are not limited to: Design-Build/Construction of: housing/barracks; dining facilities; equipment/vehicle maintenance facilities; operations facility; administrative/headquarters facility; command and control facility; communications center; fire station; waste management complex; training facility; medical facility (clinic/hospital); fuel storage facility; fuel distribution and storage system; munitions storage; power plants; utilities infrastructure; reception, staging and onward integration facilities/areas; entry/access control points; cargo handling areas; perimeter fence and guard towers; road construction; airfields; airfield support facilities; passenger/cargo terminals; drainage system projects; and water treatment facilities.

6.1.2. The Offeror shall provide a listing of projects delineating the project name, major feature (building, runway, road, etc.), overall contract value (US dollars), overall contract value the entity was responsible for (dollars or percent), location of project site (country, nearest city), and contract duration (calendar days). If any Offeror has multiple divisions or units, limit the project examples to those performed by the division, unit or team member submitting the offer. Additional experience examples may be submitted for consideration on any other member of a Contractor Teaming Arrangement that will perform a major or critical aspect of the project. Projects cited shall be currently well underway (fully designed and at least 50% construction progress completed) or construction substantially completed within six (6) years preceding the date of this solicitation. Refer to Attachment 2 for the Specialized Experience Submittal Forms. Note: Experience of Key Subs who do not have a signed Letter of Commitment will not be considered.

6.2. EVALUATION CRITERIA:

6.2.1. If any Offeror has multiple divisions or units, the Government will only evaluate experience of the division or unit submitting the offer, unless convincing evidence is provided that another division or unit will be committed to performing work under the MATOC. Each offeror will be rated on its own experience or that of its predecessor, if applicable. Provide only Offeror Experience for this Factor. Key Personnel experience will not be evaluated under this Factor. Key Personnel will be considered as part of the Phase Two evaluation.

6.2.2 The Government places a high value on a proposal that demonstrates the successful experience in the following areas:

- Construction projects for the United States Government
- Construction projects valued at \$20,000,000 or more, which are relevant to the statement of work for this ID/IQ contract
- Construction projects for which the offeror served as the prime contractor
- Performance of multiple concurrent projects across many geographically dispersed project sites/countries
- Construction projects that implemented innovative technology and/or processes to cut construction time and/or costs (or both)
- Projects demonstrating development and application of individual project site safety and health plans, and quality control plans
- Construction projects in the CENTCOM AOR, especially those in Iraq or Afghanistan
- Construction projects incorporating Defense Base Act Insurance, the Synchronized Pre-deployment Operational Tracker, and the CENTCOM Contract Verification System
- Construction projects in the CENTCOM AOR which maximized the use of local sub-contractors/local

businesses

7.0. TAB D – FACTOR 3- FINANCIAL SURETY (This Factor is a Go or No-Go.)

7.1 SUBMISSION REQUIREMENTS

Offerors are required to submit proof of their ability to obtain surety in the form of performance and payment bonds, irrevocable letters of credit, or other surety as described in FAR Part 28. Such surety shall attest to the offeror's ability to provide coverage, for not less than \$20,000,000 per task order and \$100,000,000.00 aggregate. A performance and payment bond must be supported by acceptable security as defined in FAR 28.201. A letter of commitment from an acceptable surety as defined in FAR Part 28 will provide acceptable proof of the offeror's ability to obtain the required coverage.

7.2 EVALUATION CRITERIA

This factor will be evaluated as a Go/No Go factor. Offerors who have provided proof of their ability to obtain the required surety will receive a rating of Go. The offerors who do not submit evidence of the required surety will receive a No Go rating and will be eliminated from the competition.

8.0 TAB E – RESPONSIBILITY

8.1 SUBMISSION REQUIREMENTS

- a. Aside from the Representations and Certifications concerning contractor responsibility found elsewhere in this Solicitation, there are no additional submittal requirements under Phase One.
- b. However, as a part of the Government's required responsibility determination, all offerors competing in Phase Two of this Solicitation will be required to submit any and all documentation wherein the offeror (including its parent, predecessors, affiliates or proposed subcontractors) has been negatively referenced in any U.S. Government report, investigation, *qui tam* action, civil or criminal fraud action, Flash report from Task Force SAFE or similar entity, or any other official document evidencing negative performance in U.S. Government contracting during the past six (6) years. Additionally, each offeror will be required to submit complete copies of any self disclosures made pursuant to FAR 52.203-13 or relating to the causes for debarment listed in FAR 9.406-2(b)(1)(vi), as well as all information reported pursuant to, or required to be reported pursuant to FAR 52.209-5; FAR 52.209-7; and FAR 52.209-8. Offerors will be required to certify as to completeness of documentation. Offerors will be allowed to submit comments responsive to any of the disclosed information concurrently with the submittal itself. Offerors will not be permitted to submit subsequent comments, except for compelling reasons (e.g., conclusion of a reported matter with exoneration).

8.2 EVALUATION CRITERIA

Responsibility is a Contracting Officer determination and is not evaluated. The Contracting Officer shall use this Responsibility information in making a responsibility determination for selection of Offeror(s) for award of a MATOC contract, in accordance with FAR Part 9.

9.0 PHASE ONE EVALUATION PROCEDURES

9.1. SOURCE SELECTION EVALUATION BOARD (SSEB)

9.1.1. The SSEB will be established to conduct the evaluation of proposals received in response to this solicitation. The evaluation will be based on the content of the proposal and any information obtained from other sources, e.g. past performance information. The SSEB will not consider any information incorporated by reference.

9.2. EVALUATION

9.2.1. The SSEB will evaluate the proposals and assign a consensus rating for each evaluation factor. Offerors are strongly advised to put forth its best efforts for the Phase One submission, and to furnish all information clearly to allow the Government to determine their performance capability. Offerors should assume that there will be no discussions in Phase One and that they will not have an opportunity to clarify or correct anything in its proposal after submitting a proposal in response to Phase One.

9.2.2. The Government reserves the right to allow proposal corrections, if deemed necessary to determine the most highly rated Offerors to down select for Phase Two.

9.2.3. The Contracting Officer, exercising prudent business judgment, will select the best qualified Offerors to short-list for Phase Two, with the advice and consent of the Source Selection Authority.

9.3. EVALUATION AND RATING SYSTEM

9.3.1. General: The Government will review the proposals and rate the quality of each proposal in accordance with evaluation factor. The SSEB will rate each proposal against the specified evaluation criteria in the Solicitation requirements.

9.3.2. Review Write-up: The Government will support each rating with a narrative, separately listing strengths or advantages, weaknesses or disadvantages, deficiencies, and uncertainties.

9.3.3. Rating System: After listing proposal strengths, weaknesses, and deficiencies, the SSEB will assign an adjectival rating of “Outstanding”, “Good”, “Acceptable”, “Marginal”, or “Unacceptable” for Specialized Experience. Past performance will be assigned a rating for risk, which reflects the Government’s confidence in each Offeror’s ability to successfully perform the requirements stated in the RFP. Financial Surety will be assigned a rating of “Go” or “No Go”.

9.3.4. Evaluation Levels Required for Further Consideration: In Phase One, Offerors must achieve ratings of no less than a “Moderate Risk” or “Unknown Risk” in Factor 1 (Past Performance), an “Acceptable” in Factor 2 (Specialized Experience), and a “Go” for Factor 3, to be considered for selection for participation in the Phase Two competition.

9.4. DEFINITIONS

9.4.1. Deficiency. A material failure of a proposal to meet a Government requirement or a combination of significant weaknesses in a proposal that increases the risk of unsuccessful contract performance to an unacceptable level.

9.4.2. Weakness. A flaw in the proposal that increases the risk of unsuccessful contract performance.

9.4.3. Significant Weakness. A flaw in the proposal that appreciably increases the risk of unsuccessful contract performance.

9.4.4. Strength. Any aspect of a proposal that, when judged against a stated evaluation criterion, enhances the merit of the proposal or increases the probability of successful performance of the contract.

9.4.5. Significant Strength. A significant strength appreciably enhances the merit of a proposal or appreciably enhances the probability of successful contract performance.

9.4.6. Uncertainty. Any aspect of the proposal for which the intent of the Offeror is unclear because there may be more than one way to interpret the offer or because inconsistencies in the offer indicate that there may be an error, omission or mistake. Examples include a mistake in calculation or measurement and contradictory statements.

9.4.7. Outstanding. The proposal has exceptional merit and reflects an excellent approach/experience which will clearly result in the superior attainment of all requirements and objectives. This clearly achievable approach/experience includes numerous strengths or significant strengths and essentially no weaknesses, which can be expected to result in outstanding performance. The proposal contains no deficiencies.

9.4.8. Good. The proposal demonstrates a sound approach/experience which meets all requirements and objectives. This sound approach/experience includes strengths or significant strengths, and few relatively minor weaknesses (if any), which collectively can be expected to result in above average performance. The proposal contains no deficiencies.

9.4.9. Acceptable. The proposal demonstrates an approach/experience which meets all requirements and objectives. The approach/experience might include strengths, significant strengths, weaknesses, and significant weaknesses, where the strengths and significant strengths are not outweighed by the weaknesses and significant weaknesses. Collectively, the strengths, significant strengths, weaknesses, and significant weaknesses are likely to result in acceptable performance. The proposal contains no deficiencies.

9.4.10. Marginal. The proposal demonstrates an approach/experience which does not meet all requirements and objectives. The approach/experience contains weaknesses, significant weaknesses, and/or deficiencies. Any strengths or significant strengths that may exist are outweighed by the weaknesses, significant weaknesses, and/or deficiencies. Collectively, the strengths, significant strengths, weaknesses, significant weaknesses, and/or deficiencies are likely to result in less than acceptable performance.

9.4.11. Unacceptable. The proposal demonstrates an approach/experience which has extensive issues meeting all

requirements and objectives. This approach contains numerous/weaknesses, significant weaknesses, and/or deficiencies which are not readily resolvable. If strengths or significant strengths exist, they are far outweighed by weaknesses, significant weaknesses, and/or deficiencies. Collectively, the strengths, significant strengths, weaknesses, significant weaknesses, and/or deficiencies are likely to result in highly unsatisfactory performance.

9.5. PAST PERFORMANCE RISK RATINGS

9.5.1. Past Performance Risk Ratings assess the risks associated with each Offeror's likelihood of success in performing the requirements stated in the RFP based on the Offeror's demonstrated performance on recent contracts. SSEB members and the SSA may use personal knowledge or information from other sources in its evaluation of an Offeror's past performance, provided such information is consistent with the established evaluation criteria of the RFP. Offerors that have no relevant performance record will be given a neutral/unknown risk rating for this factor:

9.5.2. Risk Rating System

9.5.2.1. Unknown Risk. Offeror has little or no relevant performance record identifiable; equates to an unknown risk rating having no positive or negative evaluation significance.

9.5.2.2. Low Risk. Little doubt exists, based upon the Offeror's performance record, that the Offeror can successfully perform the proposed effort.

9.5.2.3. Moderate Risk. Some doubt exists, based on the Offeror's performance record, that the Offeror can successfully perform the proposed effort.

9.5.2.4. High Risk. Significant doubt exists, based on the Offeror's performance record, that the Offeror can successfully perform the proposed effort.

ATTACHMENT 1 - PROPOSAL DATA SHEET

PHASE ONE - TAB A
PROPOSAL DATA SHEET
SECTION 00 22 10 - ATTACHMENT 1

Provide the following information in the following or similar format:

(1) Name of Solicitation:

(2) Name of Offeror Firm(s):

Nature of Association (e.g., Prime, Joint Venture Partner, Key Subcontractor, etc.):

Address:

Phone:

Fax:

E-mail:

DUNS #

(Provide the above information for each member of the Offeror as defined in the Executive Summary).

(3) AUTHORIZED NEGOTIATORS. FAR 52.215-11

The Offeror represents that the following persons are authorized to negotiate on its behalf with the Government in connection with this Request for Proposals (RFP).

[List names, titles, and telephone number of the authorized negotiator(s).]

Name of Person Authorized to Negotiate:

Negotiator's Address:

Negotiator's Telephone:

Negotiator's E-mail:

ATTACHMENT 2 – OFFEROR SPECIALIZED EXPERIENCE

OFFEROR NAME: _____

PHASE ONE - TAB C
OFFEROR SPECIALIZED EXPERIENCE
SECTION 00 22 10 - ATTACHMENT 2

Provide the information below, in the same or similar format, to show examples of projects comparable in size and scope to those projects described in the Scope of Work. Each project shall be currently well underway (fully designed and at least 50% construction progress completed) or construction substantially completed within six (6) years preceding the date of this solicitation. Use separate pages for separate projects.

- (a) Type of Project _____
- (b) Your Firm’s Name _____
- (c) Name of Project _____
- (d) Location of Project _____
- (e) Owner/Agency _____
- (f) General Scope of Project

- (g) Your Role (Prime, Joint Venture, or Subcontractor, etc.) and Work Your Company Self-Performed :

- (h) Total Project Cost & Percentage of Cost Performed by Your Firm

- (i) Extent and Type of Work You Subcontracted Out

- (j) Dates Construction: Began _____ Completed _____ (if not completed yet, provide % completed)
- (k) Your Performance Evaluation by Owner, if known

- (l) Were You Terminated or Assessed Liquidated Damages? _____

(If either is “Yes”, attach an Explanation)

(m) Owner’s Point of Contact for Reference (Name and Company/Agency)

(n) Current Telephone Number of Reference
POC_____

ATTACHMENT 3 – LETTER OF COMMITMENT

PHASE ONE - TAB A
SAMPLE LETTER OF COMMITMENT
(For all Key Subcontractors, Design Firms, Key Personnel, etc.)
(USE COMPANY LETTERHEAD)
SECTION 00 22 10 - ATTACHMENT 3

Provide the following information in the following or similar format:

TO: Contracting Officer
SUBJECT: Letter of Commitment for Proposed Contract for _____

Dear Sir or Madam:

I hereby make the unequivocal commitment that, in the event of an award of a contract to (Fill in name of Offeror), that (insert name of firm) will fulfill the duties of (state role on a project)

Sincerely, (Authorized Official from Key Subcontractors, Design Firms, Key Personnel, etc.)

Title of Official

Date: _____

ATTACHMENT 4 -PAST PERFORMANCE

OFFEROR NAME: _____

PHASE ONE - TAB B
 PAST PERFORMANCE EVALUATION/TELEPHONE INTERVIEW QUESTIONNAIRE
 SECTION 00 22 10 - ATTACHMENT 4

(1) Contractor/Name & Address (City and State):

(2) Type of Contract: Fixed Price _____ Cost Reimbursement _____

Other (Specify) _____

(3) Title of Project/Contract Number:

(4) Description of Work:

(5) Complexity of Work: High _____ Mid _____ Routine _____

(6) Location of Work: _____

(7) Date of Award: _____

(8) Status: Active _____ (Please provide percent complete)

Complete _____ (Please provide completion date)

(9) Name and telephone number of Owner's Technical Representative:

QUALITY OF PRODUCT/SERVICE:

(10) Please evaluate the contractor's performance in complying with contract requirements, quality achieved and overall technical expertise demonstrated.

Exceptional _____

Very Good _____

Satisfactory _____

Marginal _____

Unsatisfactory _____

Remarks:

- (11) To what extent were the contractor’s reports and documentation accurate, complete and submitted in a timely manner?

Exceptional _____
Very Good _____
Satisfactory _____
Marginal _____
Unsatisfactory _____

Remarks:

- (12) To what extent was the contractor able to solve contract performance problems without extensive guidance from Owner counterparts?

Exceptional _____
Very Good _____
Satisfactory _____
Marginal _____
Unsatisfactory _____

Remarks:

- (13) How well did the contractor manage and coordinate subcontractors, suppliers, and the labor force?

Exceptional _____
Very Good _____
Satisfactory _____
Marginal _____

Unsatisfactory _____

Remarks:

CUSTOMER SATISFACTION:

(14) To what extent were the end users satisfied with:

Exceptional _____

Very Good _____

Satisfactory _____

Marginal _____

Unsatisfactory _____

Remarks:

TIMELINESS OF PERFORMANCE:

(15) To what extent did the contractor meet the required schedules?

Completed Substantially Ahead of Schedule _____

Completed on Schedule with no Time Delays _____

Completed on Schedule with Minor Delays Under Extenuating Circumstances _____

Experienced Significant Delays without Justification _____

Remarks:

(16) If given the opportunity, would you work with this contractor again?

Yes _____ No _____ Not Sure _____

OTHER REMARKS:

(17) Please use the space below to provide other information related to the contractor's performance. This may include the contractor's selection and management of subcontractors, flexibility in dealing with contract challenges, their overall concern for the Owner's interest, project awards received, etc.

RESPONDENT INFORMATION:

Name:

Role in management of contract:

Address:

Phone Number:

Email Address:

END OF QUESTIONNAIRE

Section 00 22 20 - Phase 2 Design-Build Selection Procedures and Basis of Award

PHASE 2

PHASE TWO

THE FOLLOWING SECTION (00 22 20) REGARDING PHASE TWO OF THE SOLICITATION IS PROVIDED
IN PHASE ONE FOR INFORMATIONAL PURPOSES ONLY.

THE PHASE TWO SUBMITTAL INFORMATION IS NOT A PART OF THE PHASE ONE SUBMITTAL.

INSTRUCTIONS FOR PHASE TWO SUBMITTALS WILL BE ISSUED IN AN AMENDMENT TO THIS
SOLICITATION

SECTION 00 22 20 (ID/IQ)
PHASE TWO SELECTION PROCEDURES AND BASIS OF AWARD

- 1.0 OVERVIEW
 - 2.0 BASIS OF AWARD
 - 3.0 INSTRUCTIONS TO OFFERORS
 - 4.0 PHASE TWO PROPOSAL CONTENTS AND RELATED EVALUATION FACTORS AND ELEMENTS
 - 5.0 VOLUME 1 – FACTOR 1 – ORGANIZATIONAL AND MANAGEMENT/TECHNICAL APPROACH
 - 6.0 VOLUME 2 – FACTOR 2 - UTILIZATION OF U.S. SMALL/LOCAL FOREIGN BUSINESS CONCERNS
 - 7.0 VOLUME 3 - FACTOR 3 - PRICE AND PRO FORMA RELATED INFORMATION
 - 7.1. GENERAL
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1.0 OVERVIEW

This is a “Best Value” solicitation for Indefinite Delivery/ Indefinite Quantity (ID/IQ) Multiple Award Task Order Contracts (MATOCs) for Design-build and Construction projects in the U.S Central Command’s (CENTCOM) Area of Responsibility (AOR) with requirements identified in the attached Scope of Work entitled “Division 01 Specifications”. Following completion of Phase One evaluations, Offerors will be notified in writing whether the Government considers them to be viable competitors for Phase Two. Following receipt of this notification, Offerors intending to continue competing will be responsible for obtaining a copy of the Phase two RFP amendment and responding by the due date. The Government will evaluate the Phase Two proposals in accordance with the evaluation criteria described herein, using the evaluation rating systems outlined in the Phase Two selection procedures. Price information will be evaluated for fairness, reasonableness, price realism, and for material unbalancing. The Phase Two evaluation will be conducted in accordance with FAR Part 15.

2.0 BASIS OF AWARD (MATOC)

2.1 The Government contemplates awarding a target of ten ID/IQ multiple award task order contracts, however it reserves the right to award more, less, or none at all. Award(s) will be made to those responsible Offerors whose proposals the Source Selection Authority determines conform to the material items of the solicitation, are realistic, fair and reasonable with regard to price and whose proposals offer the best overall value to the Government, considering the price and non-price factors described herein. The Government reserves the right to award more, less or none at all. Resultant Task Orders will be issued on a Firm-Fixed Price basis. The importance of price will increase as the degree of equality between proposals increases. However, in determining the best value to the Government, the technical evaluation factor (Organizational and Management/Technical Approach) of the Phase Two evaluation is considered significantly more important than price. Utilization of U.S. Small Business/Local Foreign Business Concerns is less important than Organization and Management/Technical Approach . All evaluation factors, other than price, when combined, are considered significantly more important than price; however the Contract award shall not exceed the cost limitation described in Section 00 73 10 for each project. The intent of this solicitation is to award a pool of MATOCs and to subsequently award the initial task orders to one or more of the MATOC awardees. After the Government individually evaluates and rates each proposal, the Source Selection Official will compare proposals to determine which proposals represent the best value for award. Award of the first IDIQ(s) and initial task order(s) will be made to the Offeror(s) whose proposal(s) is/(are) determined to represent the best overall value to the Government. The Government reserves the right to accept other than the lowest priced offer or to reject all offers. The Government will not award a contract to an Offeror whose proposal contains a deficiency, as defined in FAR 15.001. If there is a lower priced, conforming offer(s), the Source Selection Official must determine that the added value of a more expensive proposal for the initial task order(s) would justify award to that Offeror(s).

2.2 The Contracting Officer may award additional contracts to additional Offerors whose proposals are considered to represent the best value to the Government based on the evaluated rating from Phase Two. Although an initial task order will not be awarded to contractors receiving these additional IDIQs, the price proposed under Phase Two will be used to conduct a price evaluation for award of the IDIQ.

3.0 INSTRUCTIONS TO OFFERORS

3.1 Offerors are required to submit proposals for both initial task orders.

4.0 PHASE TWO PROPOSAL CONTENTS AND RELATED EVALUATION FACTORS AND ELEMENTS

| <u>Factor</u> | <u>Location</u> | <u>Description</u> | <u>Relative Importance</u> |
|---------------|-----------------|--|----------------------------|
| Factor 1 | Volume 1 | Organizational and Management/Technical Approach | Most Important Factor |

| | | | |
|----------|--------------|--|---|
| Factor 2 | Volume 2 | Utilization of U.S. Small/Local Foreign Business Concern | 2 nd Most Important Factor (Less important than Factor 1) |
| Factor 3 | Vol. 3 Tab A | Price (Standard Form 1442 and Proposal Schedules) | Least Important Factor (less important than Factors 1 and 2 combined) |
| N/A | Vol. 3 Tab B | Financial Surety | Not Rated |
| N/A | Vol. 3 Tab C | Required Pre-Award Information | Not Rated |
| N/A | Vol. 3 Tab D | Price Proposal for Option Year One | Go or No-Go |
| N/A | Vol. 3 Tab E | Price Proposal for Option Year Two | Go or No-Go |
| N/A | Vol. 3 Tab F | Price Proposal for Option Year Three | Go or No-Go |

5.0 VOLUME 1 - FACTOR 1 – ORGANIZATIONAL AND MANAGEMENT/TECHNICAL APPROACH

5.1. SUBMISSION REQUIREMENTS:

5.1.1. The offeror should describe the proposed organizational structure and provide an organizational chart showing functional areas and personnel responsible for executing each function required in the Division 01 Specifications. Include the total number of personnel by discipline available to staff the requirements of this MATOC acquisition. In describing the program organization, the offeror should include the responsibilities and lines of authority; the relationship among the offeror's team members and between the prime contractor and key subcontractors. The offeror should briefly address and indicate which member(s) of the team (both from a corporate perspective and from a personnel perspective) will execute the efforts identified in the Division 01 Specifications. The offeror shall identify and provide résumés for all of the key personnel identified below and include letters of commitment for key personnel not currently employed by the offeror utilizing the format at Attachment 5. Limit the information to thirty five (35) pages or less. Clearly but concisely describe the organizational and technical approach to project management and execution, including the approach to managing multiple projects in multiple locations. The thirty five (35) page limit does not include submitted résumés or letters of commitment.

NOTE: Pages that exceed the required page limitations will not be evaluated. Additional pages from page 36 onward will be removed and will not be evaluated by the Government.

5.1.2. ELEMENT 1 – Contractor's Key Personnel: Contractors shall execute the work under the direction of a Program Manager for all MATOC efforts, and a Project Manager for each Task Order (this could be the same person). The Contractor's design entity is required to have professional architects and engineers, registered in the appropriate technical disciplines and the requirements specified in Section 00 72 00, FAR 52.236-25 "Requirements for Registration of Designers", must be met. All designs must be under the direct supervision of architects or engineers meeting the registration requirements of FAR 52.236.25 for each technical discipline involved. Contractors shall oversee task accomplishment, administer all contract efforts, and answer all questions pertaining to the tasks during the life of the contract. Contractor shall be responsible for the complete coordination of all work under this contract. All work shall be accomplished with adequate internal controls and quality control (QC) review procedures to eliminate conflicts, errors, breakdowns, inefficiencies, damages, delays, deteriorations, and omissions in the performance of the work. The personnel described below are considered very important and key to a Contractor's ability to execute the MATOC and the task orders under the MATOC. As such, the Government requires personnel information to be submitted and evaluated to assess the Contractor's ability to properly staff efforts under this MATOC.

5.1.2.1 Program Manager – The Program Manager has overall responsibility for all facets of successful MATOC execution in accordance with the terms and conditions in the MATOC. This person should have a recognized four-year university/college degree in engineering or a related technical field, and/or construction or business management; a minimum of five years experience managing and supervising horizontal, vertical and/or specialty construction projects; and be familiar with the various codes and standards applicable to the tasks covered by the MATOC scope of work. This person may be assigned duties as a Project Manager.

5.1.2.2 Project Manager – The Project Manager has overall responsibility for all facets of successful task order completion in accordance with the terms and conditions in the MATOC and Task Order. This person should have a recognized four-year university/college degree in engineering, a related technical field, and/or construction or business management; a minimum of five years experience managing and supervising horizontal and/or vertical construction projects; and be familiar with the various codes and standards applicable to the tasks covered by the MATOC scope of work. This person may be assigned duties as the MATOC Program Manager.

5.1.2.3. Designer of Record – The Designer of Record has overall professional engineer/architect responsibility for the design portion of design-build task orders. FAR 52.236-25 “Requirements for Registration of Designers,” sets out the minimum qualifications for this position. This person must also have a minimum of five years experience managing and supervising design efforts for horizontal and/or vertical construction projects; and be familiar with the various codes and standards applicable to the tasks covered by the MATOC scope of work.

5.1.2.4. Contract Administrator – The Contract Administrator has responsibility for performing functions related to administration of the basic MATOC and MATOC task orders, and other assigned functions. Typical duties would include preparing monthly reports, reviewing and approving invoices, providing assistance to the on-site contract manager, and administration of subcontracts. This person should have a minimum of five years experience in the contract administration of construction projects compatible with the MATOC scope of work.

5.1.2.5. Project Superintendent – The Project Superintendent has overall responsibility for the actual construction site and all activities thereon. This person should have a minimum of five years experience managing and supervising horizontal and/or vertical construction projects; and be familiar with the various codes and standards applicable to the tasks covered by the MATOC scope of work.

5.1.2.6. Construction Quality Control (CQC) System Manager – The CQC System Manager has overall responsibility for creating, implementing and managing the Quality Control Plan for each task order. This person should have a minimum of five years experience in the Quality Assurance and/or Control area, focused on the quality of horizontal and/or vertical construction projects; and be familiar with the various codes and standards applicable to the tasks covered by the MATOC scope of work.

5.1.2.7. Site Safety and Health Officer (SSHO)- The SSHO has overall responsibility for creating, implementing and managing the Safety Plan for each task order. This person should have a minimum of five years experience in the Safety area, focused on the safety of horizontal and/or vertical construction projects. Higher weight will be given to proven experience with the Corps safety manual, EM 385-1-1.

5.1.3 ELEMENT 2 - Organization: The organizational structure of the offeror’s proposed team (proposed prime contractor, joint venture, and key subcontractors) should be included in this organizational structure for this contract and should be illustrated using the methods listed below.

5.1.3.1. Narrative which demonstrates:

- How the initial task orders will be accomplished under the proposed organizational structure.
- How supervision will be accomplished during all phases of work.
- How various types of problems will be effectively and efficiently resolved within the organization
- Organizational roles/responsibilities
- Authority and degree of autonomy at each level
- Contractual/legal responsibilities of the team

5.1.3.2. Diagrammed Organizational Chart which indicates how this organization fits into the offeror's overall corporate structure and the working arrangement of the team.

5.1.3.3. Resource Chart showing the number of personnel by labor category proposed for each of the two initial task orders.

5.1.3.4. Include a general description of the work the Offeror will self-perform to be compliant with the requirements of the Special Contract Requirement SCR 1.4, SELF-PERFORMANCE OF WORK BY THE PRIME CONTRACTOR applicable to this solicitation (See Section 00 73 00). If the design is not performed by the offeror a commitment letter (Attachment 3) from the design firm signed by the Principal of the Architect/Engineering (AE) firm must be submitted.

5.1.4. Letter(s) of Commitment - Provide Letter(s) of Commitment from key subcontractors and key personnel who are proposed to work on this contract that, in the event of an award to the offeror, such entity/individual is firmly committed to performance on the contract. Offerors shall not include any qualifications to this commitment, such as a statement that the parties are still negotiating the terms of their agreement. Failure to submit a proper letter of commitment will be a proposal deficiency that could preclude an award. An example of this format is provided at Attachment 3.

5.1.5. ELEMENT 3 - Management Approach and Controls: Provide in narrative form the management techniques and controls that will be implemented to manage and control the work. Discuss offeror's approach for performing the work with emphasis on required results. Include the following:

- Draft Safety Plan
- Logistics Plan
- Base Access Plan
- Plan for ensuring timely payment of lower tier subcontractors at all levels.
- Approach for managing team members/subcontractors
- Information Management and Reporting Plan
- Implementation of the Resident Management System (RMS)

5.1.6. ELEMENT 4 - Technical Approach for Design Build: Describe the technical approach to design and build this task order effort. Describe how the design-builder will streamline design and construction, manage labor, and other resources in an effort to reduce costs and achieve an aggressive schedule. Describe the process to be used for iterative design, construction, and Government review/approval. Describe interactions within the team and with the Corps of Engineers during the design phase. Discuss how the configuration management system will track and control design evolution and changes during design for quality control and to facilitate expedited Government reviews. Describe the role of the construction team members during design. Describe the role and interaction of the design team with the construction team during construction, addressing, as a minimum, maintaining configuration management of the design during construction, including control and approval of revisions to the accepted design; requests for information; shop drawing and submittal reviews and approvals; progress meetings; site visits, if any; contract completion, closeout, as-built and completion documentation. Include a concept design plan.

5.1.7. ELEMENT 5 - Planning and Scheduling: Provide a detailed execution schedule for both initial task orders showing all the necessary steps to meet or beat the required completion date. Identify the system you will utilize and how your team will implement the schedule to manage design and construction. Discuss internal procedures for handling delays to minimize "schedule creep."

5.1.8. ELEMENT 6 - Quality Control: Submit your draft Quality Control Plan (QCP) for each of the two initial task orders. Describe your quality control approach, corporate systems, and your plan to maintain quality control of the design and construction for both initial task orders. Provide specific information on how you will manage design quality control, track design evolution and changes during design to meet the schedule and to facilitate expedited Government reviews. Provide information on how you will handle internal and external requests for information,

shop drawings, submittal reviews, progress meetings, site visits, contract completion, closeout, as-built, and completion documentation. After contract award, the selected Offeror(s) will be required to submit for Government approval final Quality Control Plan(s) for the initial task order(s) awarded. The offeror shall have an effective configuration management system to control and track revisions to the design.

5.2. EVALUATION CRITERIA:

5.2.1. The Government will evaluate the strengths, weaknesses, and any deficiencies in the Organizational and Management/Technical Approach. The Government will evaluate the firm's understanding of design-build and construction and its plan to execute the projects/task orders. Some additional specific evaluation items are listed below.

The Government will evaluate the strength of the overall organization, the structure and staffing to execute the entire scope of work. If the design is not performed in house the Offeror is required to select AE design firms and provide a letter of commitment (Attachment 3) in order to achieve an "acceptable" rating or higher. Joint venture participants' contribution to the project should be commensurate with their skills and background. The Government will evaluate the Offeror's capability and intent to comply with the applicable requirements for self-performance of work by the prime contractor, as applicable to the type of solicitation (See Section 00 73 00, SCR .1.4, "SELF-PERFORMANCE OF WORK BY THE PRIME CONTRACTOR")

5.2.2. Contractor's Key Personnel: The Government will evaluate the submitted key personnel information to determine how well the offeror identifies and demonstrates that its key personnel meet or exceed minimum qualifications. The Government will use the key personnel qualifications to evaluate the Contractor's ability to properly staff efforts under this MATOC.

5.2.3. Organization: The Government will evaluate the Offeror's proposal to determine if the Offeror proposes an overall organizational structure that shows clear roles and responsibilities, excellent communication networks, and the structure and staffing sufficient to execute the entire scope of work for the initial task orders. In order to receive at least an "acceptable" rating, the Offeror is required to identify a committed design team which addresses all technical requirements of the design-build initial task order.

5.2.4. Technical Approach for Design Build: The Government places a high value on an offer that provides methods to streamline construction, manage labor and other resource constraints in an effort to reduce costs and support an aggressive schedule, including such things as fast-tracking, using factory built modules or assemblies, pre-engineered facilities, panelization, pre-cast, tilt-up, standard designs, etc. The Government will also consider whether the approach reduces on-site craft labor and susceptibility to inclement weather delays. The Government places a high value on a concept design plan that is detailed, well-organized, and feasible, and which develops the initial design-build task order SOW into a plan to accomplish the work. The Government places a high value on a technical approach that is efficient, appropriately collaborative, and minimizes schedule impacts.

5.2.5. Management Approach and Controls: The Government will evaluate the proposal to determine if the Offeror has an understanding of how to plan and execute the work to successfully perform both initial task orders. The Government places a high value on:

- Approaches which will likely result in timely payments to lower tier subcontractors.
- A logistics plan which demonstrates an understanding of the logistics challenges and offers effective and efficient solutions to those challenges.
- A base access plan which demonstrates an understanding of the current base access and escort requirements and offers effective and efficient processes and demonstrates agility to adapt to rapidly changing requirements.

The Government will evaluate the integration of the design and construction firms and the staff during design and construction. The constructor must be actively involved in the design process, not just leaving it up to the designer. The Government will evaluate the offeror's understanding of the design process and the roles of the designers of record and the Government reviewers. The Government will evaluate the role of the designer in maintaining design

integrity throughout the process, including its key roles during construction. The Government places greater value in collaboration as early as possible during the design and construction process. Additional consideration will be given to a team that coordinates with as many subcontractors as possible (e.g., the key subcontractors for electrical, mechanical, fire protection, fabricators, etc.) during design development, prior to release of the applicable design packages for construction, so that systems and trade coordination can reduce interferences, increase constructability and speed up construction operations.

5.2.6. Planning and Scheduling: The Government will evaluate the schedule to ensure it shows a clear understanding of the requirements of the initial task orders and supports expeditious completion of the work.

5.2.7. Quality Control: The Government will evaluate the Offeror's understanding of what is required in a Quality Control Plan (QCP) for the initial task orders to ensure the design and construction conforms to the applicable codes and design standards, as well as the effectiveness of its configuration management system. The Government places a high value upon early integrated participation by construction personnel during design phase and continued participation by the designers of record during the construction quality control process.

6.0 VOLUME 2 – FACTOR 2 - UTILIZATION OF U. S. SMALL/LOCAL FOREIGN BUSINESS CONCERNS

6.1 SUBMISSION REQUIREMENTS:

6.1.1. All Offerors are required to complete a U.S. Small/Local Foreign Business Participation Plan. The offeror shall articulate how the offeror intends to meet the local foreign business and U.S. small business objectives for the contract in the aggregate. Offerors will be evaluated on the extent of participation of these concerns in performance of this contract opportunity. Offeror's proposal must meet the Total U.S. Small/Local Foreign Business Participation goal of 35%. This goal may be met through the participation by either U.S. small business; local foreign business, or both.

Note: Individual Task Order Addendums do not have to meet the minimum Total U.S. Small/Local Foreign Business Participation goal of 35%. The goal is applicable only to the overall contract.

The Designated Categories of Local Foreign Business are applicable to the country in which each task order is located and are as follows:

- Afghan First – In accordance with DFARS provision 225.252-7023 & DFARS clause 225.252-7024
- CASA First - Applicable when the task order is located in any one of the CASA states, which include Afghanistan, Pakistan, Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, and Uzbekistan. The Afghan First policy listed above takes precedence over this CASA First policy, which does not have a corresponding DFARS clause. The CASA First policy encourages offerors to utilize CASA supplies and services (including sub contracting) when the task order is in one of the CASA states, and offeror's who provide documentation that they are aggressively following this policy will be given due positive consideration in the overall task order award determination.
- Iraq First – In accordance with DFARS provision 225.252-7023 & DFARS clause 225.252-7024
- Other Host Nation Firms - Applicable when the task order is not located in any one of the countries listed above. Offerors are encouraged to utilize firms from the host country the task order is located in for supplies and services (including sub contracting).

U.S. Small/Local Foreign Business Participation Plan (Form)

(1) Check the applicable size and categories for the PRIME offeror -- Check all applicable boxes:

{ } Large Prime (Includes all non-U.S. businesses)

or

- { } U.S. Small Business Prime; also categorized as a
- { } Small Disadvantaged Business
 - { } Woman-Owned Small Business
 - { } HUB Zone Small Business
 - { } Veteran Owned Small Business
 - { } Service Disabled Veteran Owned Small Business
 - { } Historically Black College/Univ or Minority Institution

(2) Submit the total combined percentage of work to be performed by all categories of businesses (include the percentage of work to be performed both by Prime and Subcontractors):

When combined totals must equal 100%.

Example: If Prime proposes a price of \$1,000,000 (including all options), and local foreign and U.S. small business(es) will provide \$250,000 in services/supplies as a prime or subcontractor, the % planned for U.S. small businesses/local foreign businesses is 25%; and 75% for large business equaling 100%.

Percentage of Total Contract Dollars/Price

Total Percentage planned for Large Business(es) _____%

Total Percentage planned for Local Foreign and U.S. Small Business(es) _____% = \$ _____

Total: 100%

When combined, Large, local Foreign, and Small Business totals must equal 100%.

(3) Please indicate the total percentage of participation to be performed by each type of business. The percentage work performed by a prime U.S. Small Business should also be included in this section:

U.S. Small Business _____%

Local Foreign Business _____%

(4) List principle supplies/services to be performed by Local Foreign Businesses and U.S. Small Businesses:

Name of Company Identify Type of Service/Supply

U.S. Small Business:

| | |
|-------|-------|
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |

Local Foreign Business:

| | |
|-------|-------|
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |

(5) Describe the extent of commitment to use local foreign businesses and U.S. small businesses (for example, what types of commitments if any are in place for this specific acquisition either -- written, verbal, enforceable, non-enforceable, joint venturing, mentor-protégé, etc.)

6.2 EVALUATION CRITERIA:

The Government will evaluate the proposals to determine which offeror(s) propose(s) the best value in terms of meeting all the U.S. Small /Local Foreign Business Participation goals herein. The work to be performed directly by a U.S. Small Business prime offeror will also be treated as U.S. Small Business Participation.

6.3. ADDITIONAL IMPORTANT NOTE FOR U.S. LARGE BUSINESSES ONLY.

SMALL BUSINESS SUB-CONTRACTING PLANS (FAR 52.219-9)

Separate from the U.S. Small/Local Foreign Business Participation Plan, U.S. large business offerors must also submit a Subcontracting Plan (Individual Contract Plan) as required by FAR 52.219-9. U.S. large businesses will not be eligible for award if they fail to submit an acceptable Subcontracting Plan. Subcontracting Plans shall reflect and be consistent with the commitments offered in the U.S. Small/Local Foreign Business Participation Plan. In accordance with DFARS 215.304 (c), when an evaluation assesses the extent that U.S. small businesses and HBCUs are specifically identified in proposals, the U.S. small businesses and HBCUs considered in the evaluation shall be listed in any subcontracting plan submitted.

Each U.S. large business MATOC awardee will be required to submit an addendum to its subcontracting plan in response to each Task Order RFP, detailing its U.S. small business subcontracting goals. Such Goals proposed for each subcontracting plan addendum should not be lower than the DoD percentage targets, unless compelling evidence is presented by the contractor which supports that such goals may not be realistically obtained. Subcontracting plans will be updated annually to reflect revised DoD goals, if applicable. U.S. large business will propose the U.S. small business subcontracting goals in their subcontracting plan addendum for OCONUS task orders.

Each participation percentage above the goals shall be accompanied by detailed supporting documentation regarding the individual commitments. Detailed explanations should also be provided when the percentages fall short of the DOD goals.

For the purposes of this RFP, the U.S. small business goals stated in this section apply to work only performed in the U.S. Where the term “contract value” appears below, that term means that dollar value of the work that is to be performed in the U.S.

DOD Subcontracting Goals

| | |
|--|-------|
| U.S. Small Business | 31.7% |
| HUBZone U.S. Small Business | 3.0% |
| Service-Disabled Veteran-Owned U.S. Small Business | 3.0% |
| U.S. Small Disadvantaged Business | 5.0% |
| Women-Owned U.S. Small Business | 5.0% |

7.0 VOLUME 3 – FACTOR 3 - PRICE AND *PRO FORMA* RELATED INFORMATION

7.1 GENERAL

Submit the Price and *Pro Forma* related information in a separate envelope labeled: “Phase Two, Volume 3 – Price and *Pro Forma* Requirements.”

7.2 TAB A – PRICE (STANDARD FORM 1442 AND PROPOSAL SCHEDULE)

7.2.1 Submission Requirements:

7.2.1.1 Submit the properly filled out and executed SF 1442, along with the Project Pricing Template (Attachment 6), containing proposed line item and total pricing, as well as the proposed task order schedule. See instructions in section 00 21 00, “*Instructions, Conditions, and Notices to Offerors*”.

7.2.2 Price Proposal. In the Phase Two amendment, the Government will provide offerors with a price breakdown spreadsheet with identified Contract Line Items and a specified format to follow. The contractor must complete this price breakdown spreadsheet and provide it in Excel read/write format on a CD. Subcontracting and material handling fees, and G&A(for home office) will have a ceiling percentage that will be binding.

7.2.3. Evaluation Criteria:

7.2.3.1 Price will not be rated or scored, but will be evaluated for price realism, fairness and reasonableness through the use of a price analysis. To the extent that line item prices are requested, the price evaluators will also check for appearance of unbalanced line item prices. Offerors are cautioned to distribute direct costs, such as material, labor, equipment, subcontracts, etc. and to evenly distribute indirect costs, such as job overhead, home office overhead, bond, etc., to the appropriate contract line items. Both parties shall presume that field overhead costs through the proposed task order duration are included in the offered price for each task order.

7.2.3.2. The Government will evaluate all aspects of the price proposal for fairness, reasonableness, and price realism. Price will not be an adjectivally rated criterion, but will be evaluated as to the reasonableness and price realism, and for providing the best value to the Government. Offerors found to be unreasonably high, unrealistically low, or unbalanced, may be considered unacceptable, and may be rejected on that basis. The Government will evaluate the price realism of offerors proposed prices to determine whether the price is realistic for the work to be performed, reflects a clear understanding of the requirements, and is consistent with the methods of performance described in the offeror’s proposal. Price realism will be used as part of the government’s assessment of performance risk. The Government reserves the right to seek clarification of cost breakdowns. Any such request for explanation will constitute clarification or communication under FAR 15.306. Offerors will not be permitted to change proposed prices unless the Government conducts discussions. If an offeror’s price is deemed to be unrealistic in any of these respects, the Government will factor this consideration into the applicable non-price ratings. The agency may reject an offer that reflects a serious lack of price realism.

7.2.3.3. If deemed necessary, the supplemental price breakdown information will be used to assist the Government in performing the price evaluations described above.

7.2.3.4. Award cannot be made for project cost for design and construction exceeding the cost limitation described in the task order Section 00 73 10.

7.3 TAB B – FINANCIAL SURETY

7.3.1 Submission Requirements:

Submit the Bid Bond for each Initial Task Order in accordance with FAR 52.228-1 Bid Guarantee.

7.3.2 Evaluation Requirements:

This item is not rated. The Government will review the Bid Bond for legal sufficiency. The Bond must be legally sufficient.

7.4 TAB C – REQUIRED PRE-AWARD INFORMATION

7.4.1 Submission Requirements:

7.4.1.1 Submit this information for the Contracting Officer's determination of Offeror responsibility, which includes, but is not limited to the following:

- (a) Any and all documentation wherein the offeror (including its parent, predecessors, affiliates or proposed subcontractors) has been negatively referenced in any U.S. Government report, investigation, *qui tam* action, civil or criminal fraud action, Flash report from Task Force SAFE or similar entity, or any other official document evidencing negative performance in U.S. Government contracting during the past six (6) years. Additionally, each offeror will be required to submit complete copies of any self disclosures made pursuant to FAR 52.203-13 or relating to the causes for debarment listed in FAR 9.406-2(b)(1)(vi), as well as all information reported pursuant to, or required to be reported pursuant to FAR 52.209-5; FAR 52.209-7; and FAR 5.209-8. Offerors will be required to certify as to completeness of documentation. Offerors may submit comments responsive to any of the disclosed information concurrently with this submittal. Offerors will not be permitted to submit subsequent comments, except for compelling reasons (e.g., conclusion of a reported matter with exoneration).
- (b) A list of present commitments, including the dollar value thereof, and name of the organization under which the work is being performed. Include names and telephone numbers of personnel within each organization who are familiar with the prospective contractor's performance.
- (c) A certified statement listing; (1) each contract awarded within the preceding three month period exceeding \$1,000,000.00 in value with a brief description of the contract; and (2) each contract awarded within the preceding three year period not already physically completed and exceeding \$5,000,000.00 in value with a brief description of the contract.
- (d) If the prospective contractor is a joint venture, each joint venture member will be required to submit the above defined certification.
- (e) Bankruptcy - Offeror shall include a statement in its price proposal as to whether the offeror is in Bankruptcy proceedings or not, or is about to undergo bankruptcy proceedings. Offeror shall disclose any other information which could reasonably call into question the responsibility of the offeror to perform this contract.

7.4.2 Evaluation Requirements:

In addition to the other Phase One and Phase Two proposal information, the Contracting Officer shall use this information in making a responsibility determination for award to the Successful Offeror, in accordance with FAR Part 9.

7.5 TABs D, E and F – PRICE PROPOSALS FOR THE OPTION YEARS

7.5.1 Submission Requirements:

In order for the Government to adequately assess the contract over its potential ordering period of 60 months (base period plus all three option years), offerors must provide price proposals for the initial task orders for each of the three option periods. Offerors will provide separate SF 1442 documents, with completed proposal schedules, for

each task order, for each option year. It is expected that the submission for Tabs D, E and F will be similar to the submission for Tab A.

7.5.2 Evaluation requirements:

7.5.2.1 Price proposals for the option years will not be rated or scored, but will be evaluated for price realism, fairness and reasonableness through the use of a price analysis. To the extent that line item prices are requested, the price evaluators will also check for appearance of unbalanced line item prices. Offerors are cautioned to distribute direct costs, such as material, labor, equipment, subcontracts, etc. and to evenly distribute indirect costs, such as job overhead, home office overhead, bond, etc., to the appropriate contract line items. Both parties shall presume that field overhead costs through the proposed task order duration are included in the offered price for each task order.

7.5.2.2 The Government will evaluate all aspects of the option year price proposals for fairness, reasonableness, and price realism. Price will not be an adjectivally rated criterion, but will be evaluated as to the reasonableness and price realism, and for providing the best value to the Government. Offerors found to be unreasonably high, unrealistically low, or unbalanced, may be considered unacceptable, and may be rejected on that basis. The Government will evaluate the price realism of offerors proposed prices to determine whether the price is realistic for the work to be performed, reflects a clear understanding of the requirements, and is consistent with the methods of performance described in the offeror's proposal. Price realism will be used as part of the government's assessment of performance risk. The Government reserves the right to seek explanation of cost breakdowns. Any such request for explanation will constitute clarification or communication under FAR 15.306. Offerors will not be permitted to change proposed prices unless the Government conducts discussions. If an offeror's price is deemed to be unrealistic in any of these respects, the Government will factor this consideration into the applicable non-price ratings. The agency may reject an offer that reflects a serious lack of price realism.

7.5.2.3 If deemed necessary, the supplemental price breakdown information will be used to assist the Government in performing the price evaluations described above.

7.5.2.4 This price realism evaluation will result in a Go or No-Go determination.

7.6 To recap, the required Phase One Volume 3 submission FOR EACH TASK ORDER will contain the following:

| | |
|-------|--|
| Tab A | PRICE (STANDARD FORM 1442 AND PROPOSAL SCHEDULE) |
| Tab B | FINANCIAL SURETY |
| Tab C | REQUIRED PRE-AWARD INFORMATION |
| Tab D | PRICE PROPOSAL FOR OPTION YEAR ONE |
| Tab E | PRICE PROPOSAL FOR OPTION YEAR TWO |
| Tab F | PRICE PROPOSAL FOR OPTION YEAR THREE |

8.0 EVALUATION PROCEDURES

8.1. PHASE TWO EVALUATION PROCEDURES

8.1.1. The SSEB will evaluate the proposals and assign a consensus rating for each evaluation factor. Offerors are cautioned that they must put forth their best efforts to furnish all information requested in this RFP to allow the Government to efficiently and effectively evaluate the proposal. Offerors should not assume that they will have an opportunity to revise their proposals once submitted.

8.1.2. The Source Selection Authority, independently exercising prudent business judgment, will select the most highly rated Offerors to consider for award.

8.1.3. General: The Government will review the proposals and rate the quality of each evaluation factor. The SSEB will rate each proposal against the specified evaluation criteria in the Solicitation requirements.

8.1.4. Review Write-up: The Government will support each rating with a narrative, separately listing strengths or advantages, weaknesses or disadvantages, deficiencies, and uncertainties.

8.1.5. Rating System: After listing proposal strengths, weaknesses, and deficiencies, the SSEB will assign an adjective rating of “Outstanding”, “Good”, “Acceptable”, “Marginal”, or “Unacceptable” to each factor, and for past performance an additional adjectival rating for risk will be included, which reflects the Government’s confidence in each Offeror’s technical ability, as demonstrated in its proposal, to perform the requirements stated in the RFP.

8.1.6. Evaluation Levels Required for Further Consideration: In Phase II evaluations, Offerors must achieve ratings of no less than “Acceptable” in Factor 1 (Organization/Technical/ Management Approach) and Factor 2 (Utilization of Small /Local Foreign Business Concerns) to be considered for award.

8.2. DEFINITIONS

8.2.1. Deficiency. A material failure of a proposal to meet a Government requirement or a combination of significant weaknesses in a proposal that increases the risk of unsuccessful contract performance to an unacceptable level.

8.2.2. Weakness. A flaw in the proposal that increases the risk of unsuccessful contract performance.

8.2.3. Significant Weakness. A flaw in the proposal that appreciably increases the risk of unsuccessful contract performance.

8.2.4. Strength. Any aspect of a proposal that, when judged against a stated evaluation criterion, enhances the merit of the proposal or increases the probability of successful performance of the contract.

8.2.5. Significant Strength. A significant strength appreciably enhances the merit of a proposal or appreciably enhances the probability of successful contract performance.

8.2.6. Uncertainty. Any aspect of the proposal for which the intent of the Offeror is unclear because there may be more than one way to interpret the offer or because inconsistencies in the offer indicate that there may be an error, omission or mistake. Examples include a mistake in calculation or measurement and contradictory statements.

8.2.7. Outstanding. The proposal has exceptional merit and reflects an excellent approach which will clearly result in the superior attainment of all requirements and objectives. This clearly achievable approach includes numerous strengths or significant strengths and essentially no weaknesses, which can be expected to result in outstanding performance. The proposal contains no deficiencies.

8.2.8. Good. The proposal demonstrates a sound approach which meets all requirements and objectives. This sound approach includes strengths or significant strengths, and few relatively minor weaknesses (if any), which collectively can be expected to result in above average performance. The proposal contains no deficiencies.

8.2.9. Acceptable. The proposal demonstrates an approach which meets all requirements and objectives. The approach might include strengths, significant strengths, weaknesses, and significant weaknesses, where the strengths and significant strengths are not outweighed by the weaknesses and significant weaknesses. Collectively, the strengths, significant strengths, weaknesses, and significant weaknesses are likely to result in acceptable performance. The proposal contains no deficiencies.

8.2.10. Marginal. The proposal demonstrates an approach which does not meet all requirements and objectives. The approach contains weaknesses, significant weaknesses, and/or deficiencies. Any strengths or significant strengths that may exist are outweighed by the weaknesses, significant weaknesses, and/or deficiencies. Collectively, the strengths, significant strengths, weaknesses, significant weaknesses, and/or deficiencies are likely to result in less than acceptable performance.

8.2.11. Unacceptable. The proposal demonstrates an approach which has extensive issues meeting all requirements and objectives. This approach contains numerous/weaknesses, significant weaknesses, and/or deficiencies which are not readily resolvable. If strengths or significant strengths exist, they are far outweighed by weaknesses, significant weaknesses, and/or deficiencies. Collectively, the strengths, significant strengths, weaknesses, significant weaknesses, and/or deficiencies are likely to result in highly unsatisfactory performance.

8.3. SMALL BUSINESS RATING DEFINITIONS

8.3.1 Outstanding. A proposed SB participation with goals that achieve or exceed all RFP objectives, the goals are highly realistic based on proposal & performance risk, and the strengths of the plan far outweigh any weaknesses.

8.3.2. Good. A proposed SB participation with goals that achieve all RFP objectives with goals that are clearly realistic based on proposal & performance risk, and the strengths of the plan outweigh weaknesses.

8.3.3. Acceptable. A proposed SB participation with goals that achieve most RFP objectives, the goals are realistic based on proposal & performance risk, and any strengths and any weaknesses of the plan are offsetting.

8.3.4. Marginal. A proposed SB participation with goals that achieve only a limited number of RFP objectives, the goals may not be realistic based on proposal & performance risk, and the weaknesses outweigh any strengths.

8.3.5. Unacceptable. A proposed SB participation with goals that fail to satisfy nearly all RFP objectives, the goals are not realistic based on proposal & performance risk, and the weaknesses far outweigh any strengths.

8.4 DISCUSSIONS (If Necessary) –

8.4.1. During Phase Two, the Government intends to evaluate proposals and award without discussions (except for clarifications as described in FAR 15.306(a)). Therefore, the offeror's initial proposal should contain the offeror's best terms from a cost or price and technical standpoint. The Government reserves the right to conduct discussions if the Contracting Officer later determines them to be necessary. A "Competitive Range" is a subjective determination of the most highly rated Phase Two proposals and will be established in the event that discussions with Offerors are required in Phase Two. In such an event, the Contracting Officer will establish a competitive range of all the most highly rated Phase Two proposals.

8.4.2. If discussions are held, the Government may engage in a broad give and take with each Offeror in the competitive range, in accordance with FAR 15.306 (d). The Government will provide the Offeror an advance agenda for the discussions. During discussions, the Government may ask the Offeror to further explain its proposal and to answer questions about it.

8.4.3. Upon conclusion of discussions, those Offerors still considered the most highly rated, will be afforded an opportunity to submit their Phase Two proposal revisions, if any, for final evaluation.

8.5. PHASE ONE PROPOSAL

The Phase One evaluation will be considered only to determine which offerors will be encouraged to move on to Phase Two. It will not be considered during the Phase Two evaluation nor will it be considered in making the final

determination of which offers are the most beneficial to the Government and therefore provide the best overall value. The Contracting Officer may use Phase One information for the purpose of determining Offeror responsibility.

ATTACHMENT 5 – KEY PERSONNEL RESUME AND COMMITMENT STATEMENT

PHASE TWO
ATTACHMENT 5
KEY PERSONNEL RÉSUMÉ & COMMITMENT STATEMENT

Provide information, listed below, on separate sheets (i.e. no more than one resume per page) showing qualifications for the key personnel positions identified in Division 01 of the solicitation. Do not exceed 1 page per resume.

NOTE: Match the positions on this page to the list of key personnel in the narrative submission requirements.

a. Name and Title: _____

b. Assignment on this Contract: _____

c. Name of Firm: _____

d. No. of Years: With this Firm _____ With other Firms _____

e. Education: Degree(s)/Year/Specialization: _____

f. Active Registration, if any: No. _____, State(s) _____.
First Year/ Current Year _____/_____

g. Describe Your Specific Experience and Qualifications Relevant to this Contract: _____

h. Commitment Statement: I hereby make the unequivocal commitment that, in the event of an award of a contract to (Fill in name of Offeror), that I will fulfill the duty of (Job Title).

Signed:_____

Date:_____

ATTACHMENT 6 – COST BREAKDOWN

PHASE TWO - TAB A
COST BREAKDOWN
SECTION 00 22 20 – ATTACHMENT 6

****THIS IS A SAMPLE ONLY. A MORE DEFINED PRICING TEMPLATE WILL BE ISSUED WITH
PHASE II***

| | |
|-------------------------------------|-----------|
| Labor Man-Hours | |
| Direct Labor Cost | \$ |
| Direct Equipment Cost | \$ |
| Direct Materials Cost | \$ |
| Subcontractor Cost | \$ |
| Total Direct Cost | \$ |
| Field Office Overhead (FOOH) | \$ |
| Home Office Overhead (HOOH) | \$ |
| Bond | \$ |
| Overhead/Indirect Cost | \$ |
| Profit | \$ |
| TOTAL PROPOSED COST | \$ |

Section 00 45 00 - Representations and Certifications

INDEX 00 45 00

- A. Corporate Certificate
- B. Authority to Bind Partnership
- C. Defense Base Act Insurance

| | | |
|--------------|---|----------|
| 52.203-2 | Certificate Of Independent Price Determination | APR 1985 |
| 52.203-11 | Certification And Disclosure Regarding Payments To Influence Certain Federal Transactions | SEP 2007 |
| 52.204-3 | Taxpayer Identification | OCT 1998 |
| 52.204-8 | Annual Representations and Certifications | FEB 2009 |
| 52.209-5 | Certification Regarding Responsibility Matters | APR 2010 |
| 52.209-7 | Information Regarding Responsibility Matters | APR 2010 |
| 52.222-18 | Certification Regarding Knowledge of Child Labor for Listed End Products | FEB 2001 |
| 52.222-22 | Previous Contracts And Compliance Reports | FEB 1999 |
| 52.222-23 | Notice of Requirement for Affirmative Action to Ensure Equal Employment Opportunity for Construction | FEB 1999 |
| 52.222-38 | Compliance With Veterans' Employment Reporting Requirements | DEC 2001 |
| 52.223-13 | Certification of Toxic Chemical Release Reporting | AUG 2003 |
| 52.227-15 | Representation of Limited Rights Data And Restricted Computer Software | DEC 2007 |
| 52.228-1 | Bid Guarantee | SEP 1996 |
| 252.209-7001 | Disclosure of Ownership or Control by the Government of a Terrorist Country | JAN 2009 |
| 252.209-7002 | Disclosure Of Ownership Or Control By A Foreign Government | JUN 2010 |
| 252.225-7031 | Secondary Arab Boycott Of Israel | JUN 2005 |
| 252.225-7042 | Authorization to Perform | APR 2003 |
| 252.227-7028 | Technical Data or Computer Software Previously Delivered to the Government | JUN 1995 |
| 252.228-7004 | Bonds Or Other Security | DEC 1991 |
| 252.247-7022 | Representation Of Extent Of Transportation Of Supplies By Sea | AUG 1992 |

A. CORPORATE CERTIFICATE

If a corporation submits a proposal, the Corporate Certificate at paragraph a. below must be submitted. If the proposal is submitted by a partnership, the Authority to Bind Partnership at paragraph b. below must be completed and a copy of the partnership agreement included with the proposal. If the proposal is submitted by a Joint Venture, the Corporate Certificate at paragraph a. below must be completed by each member of the Joint Venture and a copy of the Joint Venture Agreement included with the proposal. Offerors may reproduce and submit these certificates on a separate sheet of paper.

CORPORATE CERTIFICATE

I, _____, certify that I am
the _____ (Title) of the Corporation named as

offer/contractor herein, that _____, who signed this
 proposal/contract on behalf of the Offeror/Contractor was
 then _____ of said corporation;
 that said proposal/contract was duly signed for and on behalf of said corporation by authority of
 its governing body and within the scope of its governing body and within the scope of its
 corporate powers.
 _____(CORPORATE SEAL)

B. AUTHORITY TO BIND PARTNERSHIP

This is to certify that the names and signatures of all partners are listed below and that the person signing the proposal had authority to actually bind the partnership pursuant to its partnership agreement. Each of the partners individually has full authority to enter into and execute contractual instruments on behalf of said partnership, with the United States of America except as follows: (State "none" or describe limitations, if any). This authority shall remain in full force and effect until such time as the revocation of authority by any cause whatsoever has been furnished in writing to and acknowledged by the Contracting Officer.

(Names and signatures of all partners.)

(end of certificate)

C. DEFENSE BASE ACT INSURANCE RATES will be included in individual fixed price task orders to be performed outside the U.S. by contractor personnel. The most current provision will be identified in individual task orders. See Initial Task Orders. The current provision is:

DEFENSE BASE ACT INSURANCE RATES – LIMITATION – FIXED-PRICE (OCT 2009)

(a) The U. S. Army Corps of Engineers (USACE) has entered into a contract with **CNA Insurance** to provide all Defense Base Act (DBA) insurance to USACE and JCC-I/A contractors and subcontractors at a contracted fixed rate. The fixed rates for this insurance are as follows:

| | | |
|---------|--------|------------------------------------|
| Service | \$4.00 | per \$100 of employee remuneration |
|---------|--------|------------------------------------|

| | | |
|--------------|---------|------------------------------------|
| Construction | \$6.00 | per \$100 of employee remuneration |
| Aviation | \$17.00 | per \$100 of employee remuneration |
| Security | \$10.00 | per \$100 of employee remuneration |

(b) Bidders/Offerors should compute the total compensation or total payroll, (salary, plus overseas recruitment incentive and post differential, but excludes per diem, housing allowance, travel expenses, temporary quarters allowance, education allowance and other miscellaneous post allowances) to be paid to employees who will be covered by DBA insurance. Compute the cost of DBA Insurance by utilizing the spaces provided below for the base period and whatever extension there may be thereafter, if applicable.

(1) Compensation of Covered Employees: _____
(Total Payroll Not Total Contract Value) Ex:: If total Payroll is \$100,000.00

(2) Applicable DBA Rate: _____
(Use appropriate Rate) Ex: If a Service, the rate is \$4.00/\$100 or 4%

(3) Total DBA Cost: _____
(Amount of DBA Premium) Ex:: \$100 K multiplied by 4% is \$4,000.00

(c) Bidders/Offerors shall include a statement as to whether or not local nationals or third country nationals will be employed on the resultant contract.

(d) CNA Insurance is utilizing Rutherford International as their managing Broker. The primary POC is the USACE DBA Program Administrator is Ramoan Jones, (703) 813-6571 ramoan.jones@rutherford.com. The alternate POC is Sara Payne, Senior Vice President, (703) 813-6503 sara.payne@rutherford.com.

(e) Labor Category/Job Classification Definitions:

SERVICE: \$4.00/\$100 “White collar” workers such as IT Consultants, Engineers, Administrative type Office workers and light housekeeping. Security Consultants could be included as long as they are just assessing risk and not providing armed protection.

CONSTRUCTION: \$6.00/\$100 “Blue collar” workers providing Construction services such as Carpentry, Electrical, Plumbing, Concrete, Asphalt, Day Laborers, Operation and Maintenance of Heavy Equipment

SECURITY: \$10.00/\$100 Personal Security Detail (PSD) and Static or Convoy Guarding property of Personnel

AVIATION: \$17.00/\$100 Pilot and Crew of any aircraft excluding ground personnel who provide maintenance or services but stay on the ground

(End of Provision)

CLAUSES INCORPORATED BY REFERENCE

| | | |
|-----------|--|----------|
| 52.222-18 | Certification Regarding Knowledge of Child Labor for Listed End Products | FEB 2001 |
| 52.222-23 | Notice of Requirement for Affirmative Action to Ensure Equal Employment Opportunity for Construction | FEB 1999 |

CLAUSES INCORPORATED BY FULL TEXT

52.203-2 CERTIFICATE OF INDEPENDENT PRICE DETERMINATION (APR 1985)

(a) The offeror certifies that --

(1) The prices in this offer have been arrived at independently, without, for the purpose of restricting competition, any consultation, communication, or agreement with any other offeror or competitor relating to --

(i) Those prices,

(ii) The intention to submit an offer, or

(iii) The methods of factors used to calculate the prices offered:

(2) The prices in this offer have not been and will not be knowingly disclosed by the offeror, directly or indirectly, to any other offeror or competitor before bid opening (in the case of a sealed bid solicitation) or contract award (in the case of a negotiated solicitation) unless otherwise required by law; and

(3) No attempt has been made or will be made by the offeror to induce any other concern to submit or not to submit an offer for the purpose of restricting competition.

(b) Each signature on the offer is considered to be a certification by the signatory that the signatory --

(1) Is the person in the offeror's organization responsible for determining the prices offered in this bid or proposal, and that the signatory has not participated and will not participate in any action contrary to subparagraphs (a)(1) through (a)(3) of this provision; or

(2) (i) Has been authorized, in writing, to act as agent for the following principals in certifying that those principals have not participated, and will not participate in any action contrary to subparagraphs (a)(1) through (a)(3) of this provision _____ (insert full name of person(s) in the offeror's organization responsible for determining the prices offered in this bid or proposal, and the title of his or her position in the offeror's organization);

(ii) As an authorized agent, does certify that the principals named in subdivision (b)(2)(i) above have not participated, and will not participate, in any action contrary to subparagraphs (a)(1) through (a)(3) above; and

(iii) As an agent, has not personally participated, and will not participate, in any action contrary to subparagraphs (a)(1) through (a)(3) of this provision.

(c) If the offeror deletes or modifies subparagraph (a)(2) of this provision, the offeror must furnish with its offer a signed statement setting forth in detail the circumstances of the disclosure.

(End of clause)

CLAUSES INCORPORATED BY FULL TEXT

52.203-11 CERTIFICATION AND DISCLOSURE REGARDING PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS (SEP 2007)

(a) Definitions. As used in this provision--"Lobbying contact" has the meaning provided at 2 U.S.C. 1602(8). The terms "agency," "influencing or attempting to influence," "officer or employee of an agency," "person," "reasonable compensation," and "regularly employed" are defined in the FAR clause of this solicitation entitled "Limitation on Payments to Influence Certain Federal Transactions" (52.203-12).

(b) Prohibition. The prohibition and exceptions contained in the FAR clause of this solicitation entitled "Limitation on Payments to Influence Certain Federal Transactions" (52.203-12) are hereby incorporated by reference in this provision.

(c) Certification. The offeror, by signing its offer, hereby certifies to the best of its knowledge and belief that no Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress on its behalf in connection with the awarding of this contract.

(d) Disclosure. If any registrants under the Lobbying Disclosure Act of 1995 have made a lobbying contact on behalf of the offeror with respect to this contract, the offeror shall complete and submit, with its offer, OMB Standard Form LLL, Disclosure of Lobbying Activities, to provide the name of the registrants. The offeror need not report regularly employed officers or employees of the offeror to whom payments of reasonable compensation were made.

(e) Penalty. Submission of this certification and disclosure is a prerequisite for making or entering into this contract imposed by 31 U.S.C. 1352. Any person who makes an expenditure prohibited under this provision or who fails to file or amend the disclosure required to be filed or amended by this provision, shall be subject to a civil penalty of not less than \$10,000, and not more than \$100,000, for each such failure.

(End of provision)

CLAUSES INCORPORATED BY FULL TEXT

52.204-3 TAXPAYER IDENTIFICATION (OCT 1998)

(a) Definitions.

Common parent, as used in this provision, means that corporate entity that owns or controls an affiliated group of corporations that files its Federal income tax returns on a consolidated basis, and of which the offeror is a member.

Taxpayer Identification Number (TIN), as used in this provision, means the number required by the Internal Revenue Service (IRS) to be used by the offeror in reporting income tax and other returns. The TIN may be either a Social Security Number or an Employer Identification Number.

(b) All offerors must submit the information required in paragraphs (d) through (f) of this provision to comply with debt collection requirements of 31 U.S.C. 7701(c) and 3325(d), reporting requirements of 26 U.S.C. 6041, 6041A,

and 6050M, and implementing regulations issued by the IRS. If the resulting contract is subject to the payment reporting requirements described in Federal Acquisition Regulation (FAR) 4.904, the failure or refusal by the offeror to furnish the information may result in a 31 percent reduction of payments otherwise due under the contract.

(c) The TIN may be used by the Government to collect and report on any delinquent amounts arising out of the offeror's relationship with the Government (31 U.S.C. 7701(c)(3)). If the resulting contract is subject to the payment reporting requirements described in FAR 4.904, the TIN provided hereunder may be matched with IRS records to verify the accuracy of the offeror's TIN.

(d) Taxpayer Identification Number (TIN).

___ TIN:-----

___ TIN has been applied for.

___ TIN is not required because:

___ Offeror is a nonresident alien, foreign corporation, or foreign partnership that does not have income effectively connected with the conduct of a trade or business in the United States and does not have an office or place of business or a fiscal paying agent in the United States;

___ Offeror is an agency or instrumentality of a foreign government;

___ Offeror is an agency or instrumentality of the Federal Government.

(e) Type of organization.

___ Sole proprietorship;

___ Partnership;

___ Corporate entity (not tax-exempt);

___ Corporate entity (tax-exempt);

___ Government entity (Federal, State, or local);

___ Foreign government;

___ International organization per 26 CFR 1.6049-4;

___ Other-----

(f) Common parent.

___ Offeror is not owned or controlled by a common parent as defined in paragraph (a) of this provision.

___ Name and TIN of common parent:

Name-----

TIN-----

(End of provision)

CLAUSES INCORPORATED BY FULL TEXT

52.204-8 ANNUAL REPRESENTATIONS AND CERTIFICATIONS (FEB 2009)

(a)(1) The North American Industry Classification System (NAICS) code for this acquisition is **236220**.

(2) The small business size standard is **\$33,500,000.00**.

(3) The small business size standard for a concern which submits an offer in its own name, other than on a construction or service contract, but which proposes to furnish a product which it did not itself manufacture, is 500 employees.

(b)(1) If the clause at 52.204-7, Central Contractor Registration, is included in this solicitation, paragraph (d) of this provision applies.

(2) If the clause at 52.204-7 is not included in this solicitation, and the offeror is currently registered in CCR, and has completed the ORCA electronically, the offeror may choose to use paragraph (d) of this provision instead of completing the corresponding individual representations and certifications in the solicitation. The offeror shall indicate which option applies by checking one of the following boxes:

☐ Paragraph (d) applies.

☐ Paragraph (d) does not apply and the offeror has completed the individual representations and certifications in the solicitation.

(c)(1) The following representations or certifications in ORCA are applicable to this solicitation as indicated:

(i) 52.203-2, Certificate of Independent Price Determination. This provision applies to solicitations when a firm-fixed-price contract or fixed-price contract with economic price adjustment is contemplated, unless--

(A) The acquisition is to be made under the simplified acquisition procedures in Part 13;

(B) The solicitation is a request for technical proposals under two-step sealed bidding procedures; or

(C) The solicitation is for utility services for which rates are set by law or regulation.

(ii) 52.203-11, Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions. This provision applies to solicitations expected to exceed \$100,000.

(iii) 52.204-3, Taxpayer Identification. This provision applies to solicitations that do not include the clause at 52.204-7, Central Contractor Registration.

(iv) 52.204-5, Women-Owned Business (Other Than Small Business). This provision applies to solicitations that--

(A) Are not set aside for small business concerns;

(B) Exceed the simplified acquisition threshold; and

(C) Are for contracts that will be performed in the United States or its outlying areas.

(v) 52.209-5, Certification Regarding Responsibility Matters. This provision applies to solicitations where the contract value is expected to exceed the simplified acquisition threshold.

(vi) 52.214-14, Place of Performance--Sealed Bidding. This provision applies to invitations for bids except those in which the place of performance is specified by the Government.

(vii) 52.215-6, Place of Performance. This provision applies to solicitations unless the place of performance is specified by the Government.

(viii) 52.219-1, Small Business Program Representations (Basic & Alternate I). This provision applies to solicitations when the contract will be performed in the United States or its outlying areas.

(A) The basic provision applies when the solicitations are issued by other than DoD, NASA, and the Coast Guard.

(B) The provision with its Alternate I applies to solicitations issued by DoD, NASA, or the Coast Guard.

(ix) 52.219-2, Equal Low Bids. This provision applies to solicitations when contracting by sealed bidding and the contract will be performed in the United States or its outlying areas.

(x) 52.222-22, Previous Contracts and Compliance Reports. This provision applies to solicitations that include the clause at 52.222-26, Equal Opportunity.

(xi) 52.222-25, Affirmative Action Compliance. This provision applies to solicitations, other than those for construction, when the solicitation includes the clause at 52.222-26, Equal Opportunity.

(xii) 52.222-38, Compliance with Veterans' Employment Reporting Requirements. This provision applies to solicitations when it is anticipated the contract award will exceed the simplified acquisition threshold and the contract is not for acquisition of commercial items.

(xiii) 52.223-1, Biobased Product Certification. This provision applies to solicitations that require the delivery or specify the use of USDA-designated items; or include the clause at 52.223-2, Affirmative Procurement of Biobased Products Under Service and Construction Contracts.

(xiv) 52.223-4, Recovered Material Certification. This provision applies to solicitations that are for, or specify the use of, EPA-designated items.

(xv) 52.225-2, Buy American Act Certificate. This provision applies to solicitations containing the clause at 52.225-1.

(xvi) 52.225-4, Buy American Act--Free Trade Agreements—Israeli Trade Act Certificate. (Basic, Alternate I, and Alternate II) This provision applies to solicitations containing the clause at 52.225-3.

(A) If the acquisition value is less than \$25,000, the basic provision applies.

(B) If the acquisition value is \$25,000 or more but is less than \$50,000, the provision with its Alternate I applies.

(C) If the acquisition value is \$50,000 or more but is less than \$67,826, the provision with its Alternate II applies.

(xvii) 52.225-6, Trade Agreements Certificate. This provision applies to solicitations containing the clause at 52.225-5.

(xviii) 52.225-20, Prohibition on Conducting Restricted Business Operations in Sudan--Certification.

(xix) 52.226-2, Historically Black College or University and Minority Institution Representation. This provision applies to--

(A) Solicitations for research, studies, supplies, or services of the type normally acquired from higher educational institutions; and

(B) For DoD, NASA, and Coast Guard acquisitions, solicitations that contain the clause at 52.219-23, Notice of Price Evaluation Adjustment for Small Disadvantaged Business Concerns.

(2) The following certifications are applicable as indicated by the Contracting Officer:

(Contracting Officer check as appropriate.)

----(i) 52.219-19, Small Business Concern Representation for the Small Business Competitiveness Demonstration Program.

----- (ii) 52.219-21, Small Business Size Representation for Targeted Industry Categories Under the Small Business Competitiveness Demonstration Program.

----- (iii) 52.219-22, Small Disadvantaged Business Status.

----- (A) Basic.

----- (B) Alternate I.

X ----- (iv) 52.222-18, Certification Regarding Knowledge of Child Labor for Listed End Products.

----- (v) 52.222-48, Exemption from Application of the Service Contract Act to Contracts for Maintenance, Calibration, or Repair of Certain Equipment Certification.

----- (vi) 52.222-52 Exemption from Application of the Service Contract Act to Contracts for Certain Services-- Certification.

----- (vii) 52.223-9, with its Alternate I, Estimate of Percentage of Recovered Material Content for EPA-Designated Products (Alternate I only).

X ----- (viii) 52.223-13, Certification of Toxic Chemical Release Reporting.

----- (ix) 52.227-6, Royalty Information.

----- (A) Basic.

----- (B) Alternate I.

X ----- (x) 52.227-15, Representation of Limited Rights Data and Restricted Computer Software.

(d) The offeror has completed the annual representations and certifications electronically via the Online Representations and Certifications Application (ORCA) website at <http://orca.bpn.gov>. After reviewing the ORCA database information, the offeror verifies by submission of the offer that the representations and certifications currently posted electronically that apply to this solicitation as indicated in paragraph (c) of this provision have been entered or updated within the last 12 months, are current, accurate, complete, and applicable to this solicitation (including the business size standard applicable to the NAICS code referenced for this solicitation), as of the date of this offer and are incorporated in this offer by reference (see FAR 4.1201); except for the changes identified below

(offeror to insert changes, identifying change by clause number, title, date). These amended representation(s) and/or certification(s) are also incorporated in this offer and are current, accurate, and complete as of the date of this offer.

| FAR Clause | Title | Date | Change |
|------------|-------|-------|--------|
| ----- | ----- | ----- | ----- |
| ----- | ----- | ----- | ----- |

Any changes provided by the offeror are applicable to this solicitation only, and do not result in an update to the representations and certifications posted on ORCA.

(End of Provision)

CLAUSES INCORPORATED BY FULL TEXT

52.209-5 CERTIFICATION REGARDING RESPONSIBILITY MATTERS (APR 2010)

(a)(1) The Offeror certifies, to the best of its knowledge and belief, that-

(i) The Offeror and/or any of its Principals-

(A) Are () are not () presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any Federal agency;

(B) Have () have not (), within a three-year period preceding this offer, been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) contract or subcontract; violation of Federal or State antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, violating Federal criminal tax laws, or receiving stolen property (if offeror checks "have", the offeror shall also see 52.209-7, if included in this solicitation); and

(C) Are () are not () presently indicted for, or otherwise criminally or civilly charged by a governmental entity with, commission of any of the offenses enumerated in paragraph (a)(1)(i)(B) of this provision.; and

(D) Have [ballot], have not [ballot], within a three-year period preceding this offer, been notified of any delinquent Federal taxes in an amount that exceeds \$3,000 for which the liability remains unsatisfied.

(1) Federal taxes are considered delinquent if both of the following criteria apply:

(i) The tax liability is finally determined. The liability is finally determined if it has been assessed. A liability is not finally determined if there is a pending administrative or judicial challenge. In the case of a judicial challenge to the liability, the liability is not finally determined until all judicial appeal rights have been exhausted.

(ii) The taxpayer is delinquent in making payment. A taxpayer is delinquent if the taxpayer has failed to pay the tax liability when full payment was due and required. A taxpayer is not delinquent in cases where enforced collection action is precluded.

(2) Examples. (i) The taxpayer has received a statutory notice of deficiency, under I.R.C. Sec. 6212, which entitles the taxpayer to seek Tax Court review of a proposed tax deficiency. This is not a delinquent tax because it is not a

final tax liability. Should the taxpayer seek Tax Court review, this will not be a final tax liability until the taxpayer has exercised all judicial appeal rights.

(ii) The IRS has filed a notice of Federal tax lien with respect to an assessed tax liability, and the taxpayer has been issued a notice under I.R.C. Sec. 6320 entitling the taxpayer to request a hearing with the IRS Office of Appeals contesting the lien filing, and to further appeal to the Tax Court if the IRS determines to sustain the lien filing. In the course of the hearing, the taxpayer is entitled to contest the underlying tax liability because the taxpayer has had no prior opportunity to contest the liability. This is not a delinquent tax because it is not a final tax liability. Should the taxpayer seek tax court review, this will not be a final tax liability until the taxpayer has exercised all judicial appeal rights.

(iii) The taxpayer has entered into an installment agreement pursuant to I.R.C. Sec. 6159. The taxpayer is making timely payments and is in full compliance with the agreement terms. The taxpayer is not delinquent because the taxpayer is not currently required to make full payment.

(iv) The taxpayer has filed for bankruptcy protection. The taxpayer is not delinquent because enforced collection action is stayed under 11 U.S.C. 362 (the Bankruptcy Code).

(ii) The Offeror has () has not (), within a three-year period preceding this offer, had one or more contracts terminated for default by any Federal agency.

(2) Principal, for the purposes of this certification, means an officer, director, owner, partner, or a person having primary management or supervisory responsibilities within a business entity (e.g., general manager; plant manager; head of a division or business segment; and similar positions).

(b) The Offeror shall provide immediate written notice to the Contracting Officer if, at any time prior to contract award, the Offeror learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

(c) A certification that any of the items in paragraph (a) of this provision exists will not necessarily result in withholding of an award under this solicitation. However, the certification will be considered in connection with a determination of the Offeror's responsibility. Failure of the Offeror to furnish a certification or provide such additional information as requested by the Contracting Officer may render the Offeror nonresponsible.

(d) Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by paragraph (a) of this provision. The knowledge and information of an Offeror is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

(e) The certification in paragraph (a) of this provision is a material representation of fact upon which reliance was placed when making award. If it is later determined that the Offeror knowingly rendered an erroneous certification, in addition to other remedies available to the Government, the Contracting Officer may terminate the contract resulting from this solicitation for default.

(End of provision)

CLAUSES INCORPORATED BY FULL TEXT

52.209-7 INFORMATION REGARDING RESPONSIBILITY MATTERS (APR 2010)

(a) Definitions. As used in this provision--

Administrative proceeding means a non-judicial process that is adjudicatory in nature in order to make a determination of fault or liability (e.g., Securities and Exchange Commission Administrative Proceedings, Civilian Board of Contract Appeals Proceedings, and Armed Services Board of Contract Appeals Proceedings). This includes administrative proceedings at the Federal and State level but only in connection with performance of a Federal contract or grant. It does not include agency actions such as contract audits, site visits, corrective plans, or inspection of deliverables.

Federal contracts and grants with total value greater than \$10,000,000 means--

(1) The total value of all current, active contracts and grants, including all priced options; and

(2) The total value of all current, active orders including all priced options under indefinite-delivery, indefinite-quantity, 8(a), or requirements contracts (including task and delivery and multiple-award Schedules).

(b) The offeror () has () does not have current active Federal contracts and grants with total value greater than \$10,000,000.

(c) If the offeror checked "has" in paragraph (b) of this provision, the offeror represents, by submission of this offer, that the information it has entered in the Federal Awardee Performance and Integrity Information System (FAPIS) is current, accurate, and complete as of the date of submission of this offer with regard to the following information:

(1) Whether the offeror, and/or any of its principals, has or has not, within the last five years, in connection with the award to or performance by the offeror of a Federal contract or grant, been the subject of a proceeding, at the Federal or State level that resulted in any of the following dispositions:

(i) In a criminal proceeding, a conviction.

(ii) In a civil proceeding, a finding of fault and liability that results in the payment of a monetary fine, penalty, reimbursement, restitution, or damages of \$5,000 or more.

(iii) In an administrative proceeding, a finding of fault and liability that results in--

(A) The payment of a monetary fine or penalty of \$5,000 or more; or

(B) The payment of a reimbursement, restitution, or damages in excess of \$100,000.

(iv) In a criminal, civil, or administrative proceeding, a disposition of the matter by consent or compromise with an acknowledgment of fault by the Contractor if the proceeding could have led to any of the outcomes specified in paragraphs (c)(1)(i), (c)(1)(ii), or (c)(1)(iii) of this provision.

(2) If the offeror has been involved in the last five years in any of the occurrences listed in (c)(1) of this provision, whether the offeror has provided the requested information with regard to each occurrence.

(d) The offeror shall enter the information in paragraphs (c)(1)(i) through (c)(1)(iv) of this provision in FAPIS as required through maintaining an active registration in the Central Contractor Registration database at <http://www.ccr.gov> (see 52.204-7).

Principal means an officer, director, owner, partner, or a person having primary management or supervisory responsibilities within a business entity (e.g., general manager; plant manager; head of a division or business segment; and similar positions).

(End of provision)

CLAUSES INCORPORATED BY FULL TEXT

52.222-18 CERTIFICATION REGARDING KNOWLEDGE OF CHILD LABOR FOR LISTED END PRODUCTS (FEBRUARY 2001)

(a) Definition.

Forced or indentured child labor means all work or service--

(1) Exacted from any person under the age of 18 under the menace of any penalty for its nonperformance and for which the worker does not offer himself voluntarily; or

(2) Performed by any person under the age of 18 pursuant to a contract the enforcement of which can be accomplished by process or penalties.

(b) Listed end products. The following end product(s) being acquired under this solicitation is (are) included in the List of Products Requiring Contractor Certification as to Forced or Indentured Child Labor, identified by their country of origin. There is a reasonable basis to believe that listed endproducts from the listed countries of origin may have been mined, produced, or manufactured by forced or indentured child labor.

Listed End Product

Listed Countries of Origin

(c) Certification. The Government will not make award to an offeror unless the offeror, by checking the appropriate block, certifies to either paragraph (c)(1) or paragraph (c)(2) of this provision.

() (1) The offeror will not supply any end product listed in paragraph (b) of this provision that was mined, produced, or manufactured in a corresponding country as listed for that end product.

() (2) The offeror may supply an end product listed in paragraph (b) of this provision that was mined, produced, or manufactured in the corresponding country as listed for that product. The offeror certifies that it has made a good faith effort to determine whether forced or indentured child labor was used to mine, produce, or manufacture such end product. On the basis of those efforts, the offeror certifies that it is not aware of any such use of child labor.

(End of provision)

CLAUSES INCORPORATED BY FULL TEXT

52.222-22 PREVIOUS CONTRACTS AND COMPLIANCE REPORTS (FEB 1999)

The offeror represents that --

(a) () It has, () has not participated in a previous contract or subcontract subject to the Equal Opportunity clause of this solicitation;

(b) () It has, () has not, filed all required compliance reports; and

(c) Representations indicating submission of required compliance reports, signed by proposed subcontractors, will be obtained before subcontract awards.

(End of provision)

CLAUSES INCORPORATED BY FULL TEXT

52.222-38 COMPLIANCE WITH VETERANS' EMPLOYMENT REPORTING REQUIREMENTS (DEC 2001)

By submission of its offer, the offeror represents that, if it is subject to the reporting requirements of 38 U.S.C. 4212(d) (i.e., if it has any contract containing Federal Acquisition Regulation clause 52.222-37, Employment Reports on Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans), it has submitted the most recent VETS-100 Report required by that clause.

(End of provision)

CLAUSES INCORPORATED BY FULL TEXT

52.223-13 CERTIFICATION OF TOXIC CHEMICAL RELEASE REPORTING (AUG 2003)

(a) Executive Order 13148, of April 21, 2000, Greening the Government through Leadership in Environmental Management, requires submission of this certification as a prerequisite for contract award.

(b) By signing this offer, the offeror certifies that--

(1) As the owner or operator of facilities that will be used in the performance of this contract that are subject to the filing and reporting requirements described in section 313 of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA) (42 U.S.C. 11023) and section 6607 of the Pollution Prevention Act of 1990 (PPA) (42 U.S.C. 13106), the offeror will file and continue to file for such facilities for the life of the contract the Toxic Chemical Release Inventory Form (Form R) as described in sections 313(a) and (g) of EPCRA and section 6607 of PPA; or

(2) None of its owned or operated facilities to be used in the performance of this contract is subject to the Form R filing and reporting requirements because each such facility is exempt for at least one of the following reasons: (Check each block that is applicable.)

() (i) The facility does not manufacture, process, or otherwise use any toxic chemicals listed in 40 CFR 372.65;

() (ii) The facility does not have 10 or more full-time employees as specified in section 313.(b)(1)(A) of EPCRA 42 U.S.C. 11023(b)(1)(A);

() (iii) The facility does not meet the reporting thresholds of toxic chemicals established under section 313(f) of EPCRA, 42 U.S.C. 11023(f) (including the alternate thresholds at 40 CFR 372.27, provided an appropriate certification form has been filed with EPA);

() (iv) The facility does not fall within the following Standard Industrial Classification (SIC) codes or their corresponding North American Industry Classification System sectors:

(A) Major group code 10 (except 1011, 1081, and 1094.

(B) Major group code 12 (except 1241).

(C) Major group codes 20 through 39.

(D) Industry code 4911, 4931, or 4939 (limited to facilities that combust coal and/or oil for the purpose of generating power for distribution in commerce).

(E) Industry code 4953 (limited to facilities regulated under the Resource Conservation and Recovery Act, Subtitle C (42 U.S.C. 6921, et seq.), 5169, 5171, or 7389 (limited to facilities primarily engaged in solvent recovery services on a contract or fee basis); or

() (v) The facility is not located within the United States or its outlying areas.

(End of clause)

CLAUSES INCORPORATED BY FULL TEXT

52.227-15 REPRESENTATION OF LIMITED RIGHTS DATA AND RESTRICTED COMPUTER SOFTWARE (DEC 2007)

(a) This solicitation sets forth the Government's known delivery requirements for data (as defined in the clause at 52.227-14, Rights in Data--General). Any resulting contract may also provide the Government the option to order additional data under the Additional Data Requirements clause at 52.227-16, if included in the contract. Any data delivered under the resulting contract will be subject to the Rights in Data--General clause at 52.227-14 included in this contract. Under the latter clause, a Contractor may withhold from delivery data that qualify as limited rights data or restricted computer software, and deliver form, fit, and function data instead. The latter clause also may be used with its Alternates II and/or III to obtain delivery of limited rights data or restricted computer software, marked with limited rights or restricted rights notices, as appropriate. In addition, use of Alternate V with this latter clause provides the Government the right to inspect such data at the Contractor's facility.

(b) By completing the remainder of this paragraph, the offeror represents that it has reviewed the requirements for the delivery of technical data or computer software and states [offeror check appropriate block]--

() None of the data proposed for fulfilling the data delivery requirements qualifies as limited rights data or restricted computer software; or

() Data proposed for fulfilling the data delivery requirements qualify as limited rights data or restricted computer software and are identified as follows:

(c) Any identification of limited rights data or restricted computer software in the offeror's response is not determinative of the status of the data should a contract be awarded to the offeror.

(End of provision)

CLAUSES INCORPORATED BY FULL TEXT

52.228-1 BID GUARANTEE (SEP 1996)

(a) Failure to furnish a bid guarantee in the proper form and amount, by the time set for opening of bids, may be cause for rejection of the bid.

(b) The bidder shall furnish a bid guarantee in the form of a firm commitment, e.g., bid bond supported by good and sufficient surety or sureties acceptable to the Government, postal money order, certified check, cashier's check, irrevocable letter of credit, or, under Treasury Department regulations, certain bonds or notes of the United States. The Contracting Officer will return bid guarantees, other than bid bonds, (1) to unsuccessful bidders as soon as practicable after the opening of bids, and (2) to the successful bidder upon execution of contractual documents and bonds (including any necessary coinsurance or reinsurance agreements), as required by the bid as accepted.-

(c) The amount of the bid guarantee shall be **20 percent** of the bid price or **\$3 million**, whichever is less.

(d) If the successful bidder, upon acceptance of its bid by the Government within the period specified for acceptance, fails to execute all contractual documents or furnish executed bond(s) within **15** days after receipt of the forms by the bidder, the Contracting Officer may terminate the contract for default.-

(e) In the event the contract is terminated for default, the bidder is liable for any cost of acquiring the work that exceeds the amount of its bid, and the bid guarantee is available to offset the difference.

(End of provision)

CLAUSES INCORPORATED BY FULL TEXT

252.209-7001 DISCLOSURE OF OWNERSHIP OR CONTROL BY THE GOVERNMENT OF A TERRORIST COUNTRY (JAN 2009)

(a) "Definitions."

As used in this provision --

(a) "Government of a terrorist country" includes the state and the government of a terrorist country, as well as any political subdivision, agency, or instrumentality thereof.

(2) "Terrorist country" means a country determined by the Secretary of State, under section 6(j)(1)(A) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)(i)(A)), to be a country the government of which has repeatedly provided support for such acts of international terrorism. As of the date of this provision, terrorist countries subject to this provision include: Cuba, Iran, Sudan, and Syria.

(3) "Significant interest" means --

(i) Ownership of or beneficial interest in 5 percent or more of the firm's or subsidiary's securities. Beneficial interest includes holding 5 percent or more of any class of the firm's securities in "nominee shares," "street names," or some other method of holding securities that does not disclose the beneficial owner;

(ii) Holding a management position in the firm, such as a director or officer;

(iii) Ability to control or influence the election, appointment, or tenure of directors or officers in the firm;

(iv) Ownership of 10 percent or more of the assets of a firm such as equipment, buildings, real estate, or other tangible assets of the firm; or

(v) Holding 50 percent or more of the indebtedness of a firm.

(b) "Prohibition on award."

In accordance with 10 U.S.C. 2327, no contract may be awarded to a firm or a subsidiary of a firm if the government of a terrorist country has a significant interest in the firm or subsidiary or, in the case of a subsidiary, the firm that owns the subsidiary, unless a waiver is granted by the Secretary of Defense.

(c) "Disclosure."

If the government of a terrorist country has a significant interest in the Offeror or a subsidiary of the Offeror, the Offeror shall disclose such interest in an attachment to its offer. If the Offeror is a subsidiary, it shall also disclose any significant interest the government of a terrorist country has in any firm that owns or controls the subsidiary. The disclosure shall include --

(1) Identification of each government holding a significant interest; and

(2) A description of the significant interest held by each government.

(End of provision)

CLAUSES INCORPORATED BY FULL TEXT

252.209-7002 DISCLOSURE OF OWNERSHIP OR CONTROL BY A FOREIGN GOVERNMENT (JUN 2010)

(a) Definitions. As used in this provision--

(1) "Effectively owned or controlled" means that a foreign government or any entity controlled by a foreign government has the power, either directly or indirectly, whether exercised or exercisable, to control the election, appointment, or tenure of the Offeror's officers or a majority of the Offeror's board of directors by any means, e.g., ownership, contract, or operation of law (or equivalent power for unincorporated organizations).

(2) "Entity controlled by a foreign government"—

(i) Means—

(A) Any domestic or foreign organization or corporation that is effectively owned or controlled by a foreign government; or

(B) Any individual acting on behalf of a foreign government.

(ii) Does not include an organization or corporation that is owned, but is not controlled, either directly or indirectly, by a foreign government if the ownership of that organization or corporation by that foreign government was effective before October 23, 1992.

(3) "Foreign government" includes the state and the government of any country (other than the United States and its outlying areas) as well as any political subdivision, agency, or instrumentality thereof.

(4) "Proscribed information" means—

(i) Top Secret information;

(ii) Communications security (COMSEC) material, excluding controlled cryptographic items when unkeyed or utilized with unclassified keys;

(iii) Restricted Data as defined in the U.S. Atomic Energy Act of 1954, as amended;

(iv) Special Access Program (SAP) information; or

(v) Sensitive Compartmented Information (SCI).

(b) *Prohibition on award.* No contract under a national security program may be awarded to an entity controlled by a foreign government if that entity requires access to proscribed information to perform the contract, unless the Secretary of Defense or a designee has waived application of 10 U.S.C. 2536(a).

(c) *Disclosure.* The Offeror shall disclose any interest a foreign government has in the Offeror when that interest constitutes control by a foreign government as defined in this provision. If the Offeror is a subsidiary, it shall also disclose any reportable interest a foreign government has in any entity that owns or controls the subsidiary, including reportable interest concerning the Offeror's immediate parent, intermediate parents, and the ultimate parent. Use separate paper as needed, and provide the information in the following format:

Offeror's Point of Contact for Questions about Disclosure
(Name and Phone Number with Country Code, City Code
and Area Code, as applicable)

Name and Address of Offeror

Name and Address of Entity Controlled by a Foreign
Government

Description of Interest, Ownership Percentage, and
Identification of Foreign Government

(End of provision)

CLAUSES INCORPORATED BY FULL TEXT

252.225-7031 SECONDARY ARAB BOYCOTT OF ISRAEL (JUN 2005)

(a) Definitions. As used in this provision--

(1) Foreign person means any person (including any individual, partnership, corporation, or other form of association) other than a United States person.

(2) United States means the 50 States, the District of Columbia, outlying areas, and the outer Continental Shelf as defined in 43 U.S.C. 1331.

(3) United States person is defined in 50 U.S.C. App. 2415(2) and means--

(i) Any United States resident or national (other than an individual resident outside the United States who is employed by other than a United States person);

(ii) Any domestic concern (including any permanent domestic establishment of any foreign concern); and

(iii) Any foreign subsidiary or affiliate (including any permanent foreign establishment) of any domestic concern that is controlled in fact by such domestic concern.

(b) Certification. If the offeror is a foreign person, the offeror certifies, by submission of an offer, that it--

(1) Does not comply with the Secondary Arab Boycott of Israel; and

(2) Is not taking or knowingly agreeing to take any action, with respect to the Secondary Boycott of Israel by Arab countries, which 50 U.S.C. App. 2407(a) prohibits a United States person from taking.

(End of provision)

CLAUSES INCORPORATED BY FULL TEXT

252.225-7042 AUTHORIZATION TO PERFORM (APR 2003)

The offeror represents that it has been duly authorized to operate and to do business in the country or countries in which the contract is to be performed.

(End of provision)

CLAUSES INCORPORATED BY FULL TEXT

252.227-7028 TECHNICAL DATA OR COMPUTER SOFTWARE PREVIOUSLY DELIVERED TO THE GOVERNMENT (JUN 1995)

The Offeror shall attach to its offer an identification of all documents or other media incorporating technical data or computer software it intends to deliver under this contract with other than unlimited rights that are identical or substantially similar to documents or other media that the Offeror has produced for, delivered to, or is obligated to deliver to the Government under any contract or subcontract. The attachment shall identify--

(a) The contract number under which the data or software were produced;

(b) The contract number under which, and the name and address of the organization to whom, the data or software were most recently delivered or will be delivered; and

(c) Any limitations on the Government's rights to use or disclose the data or software, including, when applicable, identification of the earliest date the limitations expire.

(End of clause)

CLAUSES INCORPORATED BY FULL TEXT

252.228-7004 BONDS OR OTHER SECURITY (DEC 1991)

(a) Offerors shall furnish a bid guarantee in the amount of \$3,000,000 with their bids. The Offeror receiving notice of award shall furnish--

(1) A performance bond in the penal amount of \$ 100% of Task Order Award Amount; and

(2) Payment in full of any sum due the Government.

(b) The Contractor shall furnish the performance bond to the Contracting Officer within 15 days after receipt of the notice of award. The Contracting Officer will not issue the notice to proceed until receipt of an acceptable performance bond and payment of any sum due the Government.

(c) Bonds supported by sureties whose names appear on the list contained in Treasury Department Circular 570 are acceptable. Performance bonds from individual sureties are acceptable if each person acting as a surety provides a SF 28, Affidavit of Individual Surety, and a pledge of assets acceptable to the Contracting Officer.

(End of clause)

CLAUSES INCORPORATED BY FULL TEXT

252.247-7022 REPRESENTATION OF EXTENT OF TRANSPORTATION BY SEA (AUG 1992)

(a) The Offeror shall indicate by checking the appropriate blank in paragraph (b) of this provision whether transportation of supplies by sea is anticipated under the resultant contract. The term supplies is defined in the Transportation of Supplies by Sea clause of this solicitation.

(b) Representation. The Offeror represents that it:

____ (1) Does anticipate that supplies will be transported by sea in the performance of any contract or subcontract resulting from this solicitation.

____ (2) Does not anticipate that supplies will be transported by sea in the performance of any contract or subcontract resulting from this solicitation.

(c) Any contract resulting from this solicitation will include the Transportation of Supplies by Sea clause. If the Offeror represents that it will not use ocean transportation, the resulting contract will also include the Defense FAR

Supplement clause at 252.247-7024, Notification of Transportation of Supplies by Sea.

(End of provision)

Section 00 72 00 - Contract Clauses

CONTRACT CLAUSES

Section 00 72 00 - Contract Clauses

CLAUSES INCORPORATED BY REFERENCE

| | | |
|-------------------|--|----------|
| 52.202-1 | Definitions | JUL 2004 |
| 52.203-3 | Gratuities | APR 1984 |
| 52.203-5 | Covenant Against Contingent Fees | APR 1984 |
| 52.203-6 | Restrictions On Subcontractor Sales To The Government | SEP 2006 |
| 52.203-7 | Anti-Kickback Procedures | JUL 1995 |
| 52.203-8 | Cancellation, Rescission, and Recovery of Funds for Illegal or Improper Activity | JAN 1997 |
| 52.203-10 | Price Or Fee Adjustment For Illegal Or Improper Activity | JAN 1997 |
| 52.203-12 | Limitation On Payments To Influence Certain Federal Transactions | SEP 2007 |
| 52.203-13 | Contractor Code of Business Ethics and Conduct | APR 2010 |
| 52.204-2 Alt II | Security Requirements (Aug 1996) - Alternate II | APR 1984 |
| 52.204-4 | Printed or Copied Double-Sided on Recycled Paper | AUG 2000 |
| 52.204-7 | Central Contractor Registration | APR 2008 |
| 52.204-10 | Reporting Executive Compensation and First-Tier Subcontract Awards | JUL 2010 |
| 52.209-6 | Protecting the Government's Interest When Subcontracting With Contractors Debarred, Suspended, or Proposed for Debarment | SEP 2006 |
| 52.209-8 | Updates of Information Regarding Responsibility Matters | APR 2010 |
| 52.211-5 | Material Requirements | AUG 2000 |
| 52.211-10 | Commencement, Prosecution, and Completion of Work | APR 1984 |
| 52.211-12 | Liquidated Damages--Construction | SEP 2000 |
| 52.211-13 | Time Extensions | SEP 2000 |
| 52.211-16 | Variation In Quantity | APR 1984 |
| 52.211-18 | Variation in Estimated Quantity | APR 1984 |
| 52.215-2 | Audit and Records--Negotiation | MAR 2009 |
| 52.215-10 | Price Reduction for Defective Cost or Pricing Data | OCT 1997 |
| 52.215-11 | Price Reduction for Defective Cost or Pricing Data--Modifications | OCT 1997 |
| 52.215-12 | Subcontractor Cost or Pricing Data | OCT 1997 |
| 52.215-13 | Subcontractor Cost or Pricing Data--Modifications | OCT 1997 |
| 52.215-15 | Pension Adjustments and Asset Reversions | OCT 2004 |
| 52.215-17 | Waiver of Facilities Capital Cost of Money | OCT 1997 |
| 52.215-18 | Reversion or Adjustment of Plans for Postretirement Benefits (PRB) Other than Pensions | JUL 2005 |
| 52.215-19 | Notification of Ownership Changes | OCT 1997 |
| 52.215-21 Alt III | Requirements for Cost or Pricing Data or Information Other Than Cost or Pricing Data--Modifications (Oct 1997) - Alternate III | OCT 1997 |
| 52.216-18 | Ordering | OCT 1995 |
| 52.216-19 | Order Limitations | OCT 1995 |
| 52.216-22 | Indefinite Quantity | OCT 1995 |
| 52.217-2 | Cancellation Under Multiyear Contracts | OCT 1997 |
| 52.217-6 | Option For Increased Quantity | MAR 1989 |
| 52.217-9 | Option To Extend The Term Of The Contract | MAR 2000 |
| 52.219-8 | Utilization of Small Business Concerns | MAY 2004 |
| 52.219-9 Alt II | Small Business Subcontracting Plan (Jul 2010) Alternate II | OCT 2001 |
| 52.219-16 | Liquidated Damages-Subcontracting Plan | JAN 1999 |
| 52.222-1 | Notice To The Government Of Labor Disputes | FEB 1997 |

| | | |
|-----------------|--|----------|
| 52.222-21 | Prohibition Of Segregated Facilities | FEB 1999 |
| 52.222-24 | Preaward On-Site Equal Opportunity Compliance Evaluation | FEB 1999 |
| 52.222-26 | Equal Opportunity | MAR 2007 |
| 52.222-27 | Affirmative Action Compliance Requirements for Construction | FEB 1999 |
| 52.222-29 | Notification Of Visa Denial | JUN 2003 |
| 52.222-35 Alt I | Equal Opportunity for Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans (Sep 2006) Alternate I | DEC 2001 |
| 52.222-36 | Affirmative Action For Workers With Disabilities | JUN 1998 |
| 52.222-37 | Employment Reports On Special Disabled Veterans, Veterans Of The Vietnam Era, and Other Eligible Veterans | SEP 2006 |
| 52.222-50 | Combating Trafficking in Persons | FEB 2009 |
| 52.223-3 | Hazardous Material Identification And Material Safety Data | JAN 1997 |
| 52.223-5 | Pollution Prevention and Right-to-Know Information | AUG 2003 |
| 52.223-14 | Toxic Chemical Release Reporting | AUG 2003 |
| 52.225-13 | Restrictions on Certain Foreign Purchases | JUN 2008 |
| 52.225-14 | Inconsistency Between English Version And Translation Of Contract | FEB 2000 |
| 52.225-19 | Contractor Personnel in a Designated Operational Area or Supporting a Diplomatic or Consular Mission Outside the United States | MAR 2008 |
| 52.227-1 | Authorization and Consent | DEC 2007 |
| 52.227-2 | Notice And Assistance Regarding Patent And Copyright Infringement | DEC 2007 |
| 52.227-4 | Patent Indemnity-Construction Contracts | DEC 2007 |
| 52.228-2 | Additional Bond Security | OCT 1997 |
| 52.228-3 | Worker's Compensation Insurance (Defense Base Act) | APR 1984 |
| 52.228-11 | Pledges Of Assets | SEP 2009 |
| 52.228-12 | Prospective Subcontractor Requests for Bonds | OCT 1995 |
| 52.228-14 | Irrevocable Letter of Credit | DEC 1999 |
| 52.228-15 | Performance and Payment Bonds--Construction | NOV 2006 |
| 52.229-3 | Federal, State And Local Taxes | APR 2003 |
| 52.229-6 | Taxes--Foreign Fixed-Price Contracts | JUN 2003 |
| 52.229-7 | Taxes--Fixed Price Contracts With Foreign Governments | JAN 1991 |
| 52.230-1 | Cost Accounting Standards Notices And Certification | OCT 2008 |
| 52.230-2 | Cost Accounting Standards | OCT 2008 |
| 52.230-3 | Disclosure And Consistency Of Cost Accounting Practices | OCT 2008 |
| 52.230-6 | Administration of Cost Accounting Standards | JUN 2010 |
| 52.231-5000 | Equipment Ownership and Operating Expense Schedule -EFARS | MAR 1995 |
| 52.232-5 | Payments under Fixed-Price Construction Contracts | SEP 2002 |
| 52.232-17 | Interest | OCT 2008 |
| 52.232-18 | Availability Of Funds | APR 1984 |
| 52.232-19 | Availability Of Funds For The Next Fiscal Year | APR 1984 |
| 52.232-23 | Assignment Of Claims | JAN 1986 |
| 52.232-25 | Prompt Payment | OCT 2008 |
| 52.232-27 | Prompt Payment for Construction Contracts | OCT 2008 |
| 52.232-33 | Payment by Electronic Funds Transfer--Central Contractor Registration | OCT 2003 |
| 52.233-1 | Disputes | JUL 2002 |
| 52.233-3 | Protest After Award | AUG 1996 |
| 52.233-4 | Applicable Law for Breach of Contract Claim | OCT 2004 |
| 52.236-1 | Performance of Work by the Contractor | APR 1984 |
| 52.236-2 | Differing Site Conditions | APR 1984 |
| 52.236-3 | Site Investigation and Conditions Affecting the Work | APR 1984 |
| 52.236-4 | Physical Data | APR 1984 |
| 52.236-5 | Material and Workmanship | APR 1984 |
| 52.236-6 | Superintendence by the Contractor | APR 1984 |
| 52.236-7 | Permits and Responsibilities | NOV 1991 |
| 52.236-8 | Other Contracts | APR 1984 |

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| 52.236-9 | Protection of Existing Vegetation, Structures, Equipment, Utilities, and Improvements | APR 1984 |
| 52.236-10 | Operations and Storage Areas | APR 1984 |
| 52.236-11 | Use and Possession Prior to Completion | APR 1984 |
| 52.236-12 | Cleaning Up | APR 1984 |
| 52.236-13 | Accident Prevention | NOV 1991 |
| 52.236-14 | Availability and Use of Utility Services | APR 1984 |
| 52.236-15 | Schedules for Construction Contracts | APR 1984 |
| 52.236-17 | Layout of Work | APR 1984 |
| 52.236-19 | Organization and Direction of the Work | APR 1984 |
| 52.236-21 | Specifications and Drawings for Construction | FEB 1997 |
| 52.236-22 | Design within Funding Limitations | APR 1984 |
| 52.236-25 | Requirements for Registration of Designers | JUN 2003 |
| 52.236-26 | Preconstruction Conference | FEB 1995 |
| 52.237-2 | Protection Of Government Buildings, Equipment, And Vegetation | APR 1984 |
| 52.237-3 | Continuity Of Services | JAN 1991 |
| 52.242-13 | Bankruptcy | JUL 1995 |
| 52.242-14 | Suspension of Work | APR 1984 |
| 52.242-15 | Stop-Work Order | AUG 1989 |
| 52.242-17 | Government Delay Of Work | APR 1984 |
| 52.243-1 Alt III | Changes--Fixed Price (Aug 1987) - Alternate III | APR 1984 |
| 52.243-4 | Changes | JUN 2007 |
| 52.243-5 | Changes and Changed Conditions | APR 1984 |
| 52.243-7 | Notification Of Changes | APR 1984 |
| 52.244-2 | Subcontracts | JUN 2007 |
| 52.244-5 | Competition In Subcontracting | DEC 1996 |
| 52.244-6 | Subcontracts for Commercial Items | JUN 2010 |
| 52.245-1 | Government Property | AUG 2010 |
| 52.245-2 | Government Property Installation Operation Services | AUG 2010 |
| 52.246-12 | Inspection of Construction | AUG 1996 |
| 52.246-16 | Responsibility For Supplies | APR 1984 |
| 52.246-19 Alt II | Warranty Of Systems & Equipment Under Performance Specifications Or Design Criteria (May 2001) - Alternate II | APR 1984 |
| 52.246-21 | Warranty of Construction | MAR 1994 |
| 52.247-63 | Preference For U.S. Flag Air Carriers | JUN 2003 |
| 52.248-1 | Value Engineering | FEB 2000 |
| 52.248-3 | Value Engineering-Construction | SEP 2006 |
| 52.249-2 | Termination For Convenience Of The Government (Fixed-Price) | MAY 2004 |
| 52.249-10 | Default (Fixed-Price Construction) | APR 1984 |
| 52.249-14 | Excusable Delays | APR 1984 |
| 52.249-5000 | Basis for Settlement of Proposals | |
| 52.252-2 | Clauses Incorporated By Reference | FEB 1998 |
| 52.252-4 | Alterations in Contract | APR 1984 |
| 52.253-1 | Computer Generated Forms | JAN 1991 |
| 252.201-7000 | Contracting Officer's Representative | DEC 1991 |
| 252.203-7001 | Prohibition On Persons Convicted of Fraud or Other Defense-Contract-Related Felonies | DEC 2008 |
| 252.203-7002 | Requirement to Inform Employees of Whistleblower Rights | JAN 2009 |
| 252.204-7000 | Disclosure Of Information | DEC 1991 |
| 252.204-7003 | Control Of Government Personnel Work Product | APR 1992 |
| 252.204-7004 Alt A | Central Contractor Registration (52.204-7) Alternate A | SEP 2007 |
| 252.205-7000 | Provision Of Information To Cooperative Agreement Holders | DEC 1991 |

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| 252.209-7001 | Disclosure of Ownership or Control by the Government of a Terrorist Country | JAN 2009 |
| 252.209-7004 | Subcontracting With Firms That Are Owned or Controlled By The Government of a Terrorist Country | DEC 2006 |
| 252.215-7000 | Pricing Adjustments | DEC 1991 |
| 252.215-7002 | Cost Estimating System Requirements | DEC 2006 |
| 252.219-7003 | Small Business Subcontracting Plan (DOD Contracts) | APR 2007 |
| 252.222-7002 | Compliance With Local Labor Laws (Overseas) | JUN 1997 |
| 252.223-7001 | Hazard Warning Labels | DEC 1991 |
| 252.223-7004 | Drug Free Work Force | SEP 1988 |
| 252.223-7006 | Prohibition On Storage And Disposal Of Toxic And Hazardous Materials | APR 1993 |
| 252.225-7001 | Buy American Act And Balance Of Payments Program | JAN 2009 |
| 252.225-7005 | Identification Of Expenditures In The United States | JUN 2005 |
| 252.225-7012 | Preference For Certain Domestic Commodities | JUN 2010 |
| 252.225-7015 | Restriction on Acquisition of Hand Or Measuring Tools | JUN 2005 |
| 252.225-7019 | Restriction on Acquisition of Anchor and Mooring Chain | DEC 2009 |
| 252.225-7022 | Trade Agreements Certificate--Inclusion of Iraqi End Products | SEP 2008 |
| 252.225-7023 | Preference for Products or Services from Iraq or Afghanistan | APR 2010 |
| 252.225-7024 | Requirement for Products or Services from IRAQ or Afghanistan | APR 2010 |
| 252.225-7025 | Restriction on Acquisition of Forgings | DEC 2009 |
| 252.225-7026 | Acquisition Restricted to Products or Services | APR 2010 |
| 252.225-7027 | Restrictions on Contingent Fees for Foreign Military Sales | APR 2003 |
| 252.225-7028 | Exclusionary Policies And Practices Of Foreign Government | APR 2003 |
| 252.225-7030 | Restriction On Acquisition Of Carbon, Alloy, And Armor Steel Plate | DEC 2006 |
| 252.225-7031 | Secondary Arab Boycott Of Israel | JUN 2005 |
| 252.225-7032 | Waiver Of United Kingdom Levies--Evaluation of Offers | APR 2003 |
| 252.225-7033 | Waiver of United Kingdom Levies | APR 2003 |
| 252.225-7036 | Buy American--Free Trade Agreement--Balance of Payments Program | JUL 2009 |
| 252.225-7040 | Contractor Personnel Authorized to Accompany U.S. Armed Forces Deployed Outside the United States | JUL 2009 |
| 252.225-7041 | Correspondence in English | JUN 1997 |
| 252.225-7042 | Authorization to Perform | APR 2003 |
| 252.225-7043 | Antiterrorism/Force Protection Policy for Defense Contractors Outside the United States | MAR 2006 |
| 252.225-7044 | Balance of Payments Program--Construction Material | JAN 2009 |
| 252.225-7045 | Balance of Payments Program--Construction Material Under Trade Agreements | NOV 2009 |
| 252.225-7997 (Dev) | Additional Requirements and Responsibilities Relating to Alleged Crimes by or Against Contractor Personnel in Iraq and Afghanistan (Deviation) | DEC 2009 |
| 252.227-7013 | Rights in Technical Data--Noncommercial Items | NOV 1995 |
| 252.227-7014 | Rights in Noncommercial Computer Software and Noncommercial Computer Software Documentation | JUN 1995 |
| 252.227-7015 | Technical Data--Commercial Items | NOV 1995 |
| 252.227-7016 | Rights in Bid or Proposal Information | JUN 1995 |
| 252.227-7017 | Identification and Assertion of Use, Release, or Disclosure Restrictions | JUN 1995 |
| 252.227-7019 | Validation of Asserted Restrictions--Computer Software | JUN 1995 |
| 252.227-7022 | Government Rights (Unlimited) | MAR 1979 |
| 252.227-7023 | Drawings and Other Data to become Property of Government | MAR 1979 |
| 252.227-7024 | Notice and Approval of Restricted Designs | APR 1984 |
| 252.227-7025 | Limitations on the Use or Disclosure of Government-Furnished Information Marked with Restrictive Legends | JUN 1995 |
| 252.227-7026 | Deferred Delivery Of Technical Data Or Computer Software | APR 1988 |
| 252.227-7027 | Deferred Ordering Of Technical Data Or Computer Software | APR 1988 |

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| 252.227-7028 | Technical Data or Computer Software Previously Delivered to the Government | JUN 1995 |
| 252.227-7030 | Technical Data--Withholding Of Payment | MAR 2000 |
| 252.227-7032 | Rights In Technical Data And Computer Software (Foreign) | JUN 1975 |
| 252.227-7033 | Rights in Shop Drawings | APR 1966 |
| 252.227-7037 | Validation of Restrictive Markings on Technical Data | SEP 1999 |
| 252.228-7003 | Capture and Detention | DEC 1991 |
| 252.229-7000 | Invoices Exclusive of Taxes or Duties | JUN 1997 |
| 252.231-7000 | Supplemental Cost Principles | DEC 1991 |
| 252.232-7003 | Electronic Submission of Payment Requests and Receiving Reports | MAR 2008 |
| 252.232-7008 | Assignment of Claims (Overseas) | JUN 1997 |
| 252.232-7010 | Levies on Contract Payments | DEC 2006 |
| 252.233-7001 | Choice of Law (Overseas) | JUN 1997 |
| 252.236-7000 | Modification Proposals-Price Breakdown | DEC 1991 |
| 252.236-7001 | Contract Drawings, and Specifications | AUG 2000 |
| 252.236-7004 | Payment for Mobilization and Demobilization | DEC 1991 |
| 252.236-7005 | Airfield Safety Precautions | DEC 1991 |
| 252.236-7008 | Contract Prices-Bidding Schedules | DEC 1991 |
| 252.243-7001 | Pricing Of Contract Modifications | DEC 1991 |
| 252.243-7002 | Requests for Equitable Adjustment | MAR 1998 |
| 252.246-9999 (Dev) | Safety of Facilities, Infrastructure ⁴ , and Equipment for Military Operations (Deviation) | APR 2010 |
| 252.247-7001 | Price Adjustment | JAN 1997 |
| 252.247-7023 | Transportation of Supplies by Sea | MAY 2002 |
| 252.247-7024 | Notification Of Transportation Of Supplies By Sea | MAR 2000 |

CLAUSES INCORPORATED BY FULL TEXT

52.202-1 DEFINITIONS (JUL 2004)

(a) When a solicitation provision or contract clause uses a word or term that is defined in the Federal Acquisition Regulation (FAR), the word or term has the same meaning as the definition in FAR 2.101 in effect at the time the solicitation was issued, unless--

- (1) The solicitation, or amended solicitation, provides a different definition;
- (2) The contracting parties agree to a different definition;
- (3) The part, subpart, or section of the FAR where the provision or clause is prescribed provides a different meaning; or
- (4) The word or term is defined in FAR Part 31, for use in the cost principles and procedures.

(b) The FAR Index is a guide to words and terms the FAR defines and shows where each definition is located. The FAR Index is available via the Internet at <http://www.acqnet.gov> at the end of the FAR, after the FAR Appendix.

(End of clause)

CLAUSES INCORPORATED BY FULL TEXT

52.203-3 GRATUITIES (APR 1984)

(a) The right of the Contractor to proceed may be terminated by written notice if, after notice and hearing, the agency head or a designee determines that the Contractor, its agent, or another representative--

(1) Offered or gave a gratuity (e.g., an entertainment or gift) to an officer, official, or employee of the Government; and

(2) Intended, by the gratuity, to obtain a contract or favorable treatment under a contract.

(b) The facts supporting this determination may be reviewed by any court having lawful jurisdiction.

(c) If this contract is terminated under paragraph (a) of this clause, the Government is entitled--

(1) To pursue the same remedies as in a breach of the contract; and

(2) In addition to any other damages provided by law, to exemplary damages of not less than 3 nor more than 10 times the cost incurred by the Contractor in giving gratuities to the person concerned, as determined by the agency head or a designee. (This subparagraph (c)(2) is applicable only if this contract uses money appropriated to the Department of Defense.)

(d) The rights and remedies of the Government provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under this contract.

(End of clause)

CLAUSES INCORPORATED BY FULL TEXT

52.203-5 COVENANT AGAINST CONTINGENT FEES (APR 1984)

(a) The Contractor warrants that no person or agency has been employed or retained to solicit or obtain this contract upon an agreement or understanding for a contingent fee, except a bona fide employee or agency. For breach or violation of this warranty, the Government shall have the right to annul this contract without liability or, in its discretion, to deduct from the contract price or consideration, or otherwise recover, the full amount of the contingent fee.

(b) "Bona fide agency," as used in this clause, means an established commercial or selling agency, maintained by a contractor for the purpose of securing business, that neither exerts nor proposes to exert improper influence to solicit or obtain Government contracts nor holds itself out as being able to obtain any Government contract or contracts through improper influence.

"Bona fide employee," as used in this clause, means a person, employed by a contractor and subject to the contractor's supervision and control as to time, place, and manner of performance, who neither exerts nor proposes to exert improper influence to solicit or obtain Government contracts nor holds out as being able to obtain any Government contract or contracts through improper influence.

"Contingent fee," as used in this clause, means any commission, percentage, brokerage, or other fee that is contingent

upon the success that a person or concern has in securing a Government contract.

"Improper influence," as used in this clause, means any influence that induces or tends to induce a Government employee or officer to give consideration or to act regarding a Government contract on any basis other than the merits of the matter.

(End of clause)

CLAUSES INCORPORATED BY FULL TEXT

52.203-6 RESTRICTIONS ON SUBCONTRACTOR SALES TO THE GOVERNMENT (SEP 2006)

(a) Except as provided in (b) of this clause, the Contractor shall not enter into any agreement with an actual or prospective subcontractor, nor otherwise act in any manner, which has or may have the effect of restricting sales by such subcontractors directly to the Government of any item or process (including computer software) made or furnished by the subcontractor under this contract or under any follow-on production contract.

(b) The prohibition in (a) of this clause does not preclude the Contractor from asserting rights that are otherwise authorized by law or regulation.

(c) The Contractor agrees to incorporate the substance of this clause, including this paragraph (c), in all subcontracts under this contract which exceed the simplified acquisition threshold.

CLAUSES INCORPORATED BY FULL TEXT

52.203-7 ANTI-KICKBACK PROCEDURES. (JUL 1995)

(a) Definitions.

"Kickback," as used in this clause, means any money, fee, commission, credit, gift, gratuity, thing of value, or compensation of any kind which is provided, directly or indirectly, to any prime Contractor, prime Contractor employee, subcontractor, or subcontractor employee for the purpose of improperly obtaining or rewarding favorable treatment in connection with a prime contract or in connection with a subcontract relating to a prime contract.

"Person," as used in this clause, means a corporation, partnership, business association of any kind, trust, joint-stock company, or individual.

"Prime contract," as used in this clause, means a contract or contractual action entered into by the United States for the purpose of obtaining supplies, materials, equipment, or services of any kind.

"Prime Contractor," as used in this clause, means a person who has entered into a prime contract with the United States.

"Prime Contractor employee," as used in this clause, means any officer, partner, employee, or agent of a prime Contractor.

"Subcontract," as used in this clause, means a contract or contractual action entered into by a prime Contractor or

subcontractor for the purpose of obtaining supplies, materials, equipment, or services of any kind under a prime contract.

"Subcontractor," as used in this clause, (1) means any person, other than the prime Contractor, who offers to furnish or furnishes any supplies, materials, equipment, or services of any kind under a prime contract or a subcontract entered into in connection with such prime contract, and (2) includes any person who offers to furnish or furnishes general supplies to the prime Contractor or a higher tier subcontractor.

"Subcontractor employee," as used in this clause, means any officer, partner, employee, or agent of a subcontractor.

(b) The Anti-Kickback Act of 1986 (41 U.S.C. 51-58) (the Act), prohibits any person from -

(1) Providing or attempting to provide or offering to provide any kickback;

(2) Soliciting, accepting, or attempting to accept any kickback; or

(3) Including, directly or indirectly, the amount of any kickback in the contract price charged by a prime Contractor to the United States or in the contract price charged by a subcontractor to a prime Contractor or higher tier subcontractor.

(c)(1) The Contractor shall have in place and follow reasonable procedures designed to prevent and detect possible violations described in paragraph (b) of this clause in its own operations and direct business relationships.

(2) When the Contractor has reasonable grounds to believe that a violation described in paragraph (b) of this clause may have occurred, the Contractor shall promptly report in writing the possible violation. Such reports shall be made to the inspector general of the contracting agency, the head of the contracting agency if the agency does not have an inspector general, or the Department of Justice.

(3) The Contractor shall cooperate fully with any Federal agency investigating a possible violation described in paragraph (b) of this clause.

(4) The Contracting Officer may (i) offset the amount of the kickback against any monies owed by the United States under the prime contract and/or (ii) direct that the Prime Contractor withhold, from sums owed a subcontractor under the prime contract, the amount of any kickback. The Contracting Officer may order the monies withheld under subdivision (c)(4)(ii) of this clause be paid over to the Government unless the Government has already offset those monies under subdivision (c)(4)(i) of this clause. In either case, the Prime Contractor shall notify the Contracting Officer when the monies are withheld.

(5) The Contractor agrees to incorporate the substance of this clause, including this subparagraph (c)(5) but excepting subparagraph (c)(1), in all subcontracts under this contract which exceed \$100,000.

CLAUSES INCORPORATED BY FULL TEXT

52.203-8 CANCELLATION, RESCISSION, AND RECOVERY OF FUNDS FOR ILLEGAL OR IMPROPER ACTIVITY (JAN 1997)

(a) If the Government receives information that a contractor or a person has engaged in conduct constituting a violation of subsection (a), (b), (c), or (d) of Section 27 of the Office of Federal Procurement Policy Act (41 U.S.C.

423) (the Act), as amended by section 4304 of the 1996 National Defense Authorization Act for Fiscal Year 1996 (Pub. L. 104-106), the Government may--

(1) Cancel the solicitation, if the contract has not yet been awarded or issued; or

(2) Rescind the contract with respect to which--

(i) The Contractor or someone acting for the Contractor has been convicted for an offense where the conduct constitutes a violation of subsection 27(a) or (b) of the Act for the purpose of either--

(A) Exchanging the information covered by such subsections for anything of value; or

(B) Obtaining or giving anyone a competitive advantage in the award of a Federal agency procurement contract; or

(ii) The head of the contracting activity has determined, based upon a preponderance of the evidence, that the Contractor or someone acting for the Contractor has engaged in conduct constituting an offense punishable under subsections 27(e)(1) of the Act.

(b) If the Government rescinds the contract under paragraph (a) of this clause, the Government is entitled to recover, in addition to any penalty prescribed by law, the amount expended under the contract.

(c) The rights and remedies of the Government specified herein are not exclusive, and are in addition to any other rights and remedies provided by law, regulation, or under this contract.

(End of clause)

CLAUSES INCORPORATED BY FULL TEXT

52.203-10 PRICE OR FEE ADJUSTMENT FOR ILLEGAL OR IMPROPER ACTIVITY (JAN 1997)

(a) The Government, at its election, may reduce the price of a fixed-price type contract and the total cost and fee under a cost-type contract by the amount of profit or fee determined as set forth in paragraph (b) of this clause if the head of the contracting activity or designee determines that there was a violation of subsection 27 (a), (b), or (c) of the Office of Federal Procurement Policy Act, as amended (41 U.S.C. 423), as implemented in section 3.104 of the Federal Acquisition Regulation.

(b) The price or fee reduction referred to in paragraph (a) of this clause shall be--

(1) For cost-plus-fixed-fee contracts, the amount of the fee specified in the contract at the time of award;

(2) For cost-plus-incentive-fee contracts, the target fee specified in the contract at the time of award, notwithstanding any minimum fee or "fee floor" specified in the contract;

(3) For cost-plus-award-fee contracts--

(i) The base fee established in the contract at the time of contract award;

(ii) If no base fee is specified in the contract, 30 percent of the amount of each award fee otherwise payable to the Contractor for each award fee evaluation period or at each award fee determination point.

(4) For fixed-price-incentive contracts, the Government may--

(i) Reduce the contract target price and contract target profit both by an amount equal to the initial target profit specified in the contract at the time of contract award; or

(ii) If an immediate adjustment to the contract target price and contract target profit would have a significant adverse impact on the incentive price revision relationship under the contract, or adversely affect the contract financing provisions, the Contracting Officer may defer such adjustment until establishment of the total final price of the contract. The total final price established in accordance with the incentive price revision provisions of the contract shall be reduced by an amount equal to the initial target profit specified in the contract at the time of contract award and such reduced price shall be the total final contract price.

(5) For firm-fixed-price contracts, by 10 percent of the initial contract price or a profit amount determined by the Contracting Officer from records or documents in existence prior to the date of the contract award.

(c) The Government may, at its election, reduce a prime contractor's price or fee in accordance with the procedures of paragraph (b) of this clause for violations of the Act by its subcontractors by an amount not to exceed the amount of profit or fee reflected in the subcontract at the time the subcontract was first definitively priced.

(d) In addition to the remedies in paragraphs (a) and (c) of this clause, the Government may terminate this contract for default. The rights and remedies of the Government specified herein are not exclusive, and are in addition to any other rights and remedies provided by law or under this contract.

(End of clause)

CLAUSES INCORPORATED BY FULL TEXT

52.203-12 LIMITATION ON PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS (SEP 2007)

(a) Definitions. As used in this clause--

Agency means executive agency as defined in Federal Acquisition Regulation (FAR) 2.101.

Covered Federal action means any of the following actions:

(1) Awarding any Federal contract.

(2) Making any Federal grant.

(3) Making any Federal loan.

(4) Entering into any cooperative agreement.

(5) Extending, continuing, renewing, amending, or modifying any Federal contract, grant, loan, or cooperative agreement.

Indian tribe and tribal organization have the meaning provided in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b) and include Alaskan Natives.

Influencing or attempting to influence means making, with the intent to influence, any communication to or appearance before an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any covered Federal action.

Local government means a unit of government in a State and, if chartered, established, or otherwise recognized by a State for the performance of a governmental duty, including a local public authority, a special district, an intrastate district, a council of governments, a sponsor group representative organization, and any other instrumentality of a local government.

Officer or employee of an agency includes the following individuals who are employed by an agency:

- (1) An individual who is appointed to a position in the Government under Title 5, United States Code, including a position under a temporary appointment.
- (2) A member of the uniformed services, as defined in subsection 101(3), Title 37, United States Code.
- (3) A special Government employee, as defined in section 202, Title 18, United States Code.
- (4) An individual who is a member of a Federal advisory committee, as defined by the Federal Advisory Committee Act, Title 5, United States Code, appendix 2.

Person means an individual, corporation, company, association, authority, firm, partnership, society, State, and local government, regardless of whether such entity is operated for profit, or not for profit. This term excludes an Indian tribe, tribal organization, or any other Indian organization eligible to receive Federal contracts, grants, cooperative agreements, or loans from an agency, but only with respect to expenditures by such tribe or organization that are made for purposes specified in paragraph (b) of this clause and are permitted by other Federal law.

Reasonable compensation means, with respect to a regularly employed officer or employee of any person, compensation that is consistent with the normal compensation for such officer or employee for work that is not furnished to, not funded by, or not furnished in cooperation with the Federal Government.

Reasonable payment means, with respect to professional and other technical services, a payment in an amount that is consistent with the amount normally paid for such services in the private sector.

Recipient includes the Contractor and all subcontractors. This term excludes an Indian tribe, tribal organization, or any other Indian organization eligible to receive Federal contracts, grants, cooperative agreements, or loans from an agency, but only with respect to expenditures by such tribe or organization that are made for purposes specified in paragraph (b) of this clause and are permitted by other Federal law.

Regularly employed means, with respect to an officer or employee of a person requesting or receiving a Federal contract, an officer or employee who is employed by such person for at least 130 working days within 1 year immediately preceding the date of the submission that initiates agency consideration of such person for receipt of such contract. An officer or employee who is employed by such person for less than 130 working days within 1 year immediately preceding the date of the submission that initiates agency consideration of such person shall be considered to be regularly employed as soon as he or she is employed by such person for 130 working days.

State means a State of the United States, the District of Columbia, or an outlying area of the United States, an agency or instrumentality of a State, and multi-State, regional, or interstate entity having governmental duties and powers.

(b) Prohibition. 31 U.S.C. 1352 prohibits a recipient of a Federal contract, grant, loan, or cooperative agreement from using appropriated funds to pay any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any covered Federal actions. In accordance with 31 U.S.C. 1352, the Contractor shall not use appropriated funds to pay any person for influencing or attempting to influence an officer or employee of any

agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the award of this contract the extension, continuation, renewal, amendment, or modification of this contract.

(1) The term appropriated funds does not include profit or fee from a covered Federal action.

(2) To the extent the Contractor can demonstrate that the Contractor has sufficient monies, other than Federal appropriated funds, the Government will assume that these other monies were spent for any influencing activities that would be unallowable if paid for with Federal appropriated funds.

(c) Exceptions. The prohibition in paragraph (b) of this clause does not apply under the following conditions:

(1) Agency and legislative liaison by Contractor employees.

(i) Payment of reasonable compensation made to an officer or employee of the Contractor if the payment is for agency and legislative liaison activities not directly related to this contract. For purposes of this paragraph, providing any information specifically requested by an agency or Congress is permitted at any time.

(ii) Participating with an agency in discussions that are not related to a specific solicitation for any covered Federal action, but that concern--

(A) The qualities and characteristics (including individual demonstrations) of the person's products or services, conditions or terms of sale, and service capabilities; or

(B) The application or adaptation of the person's products or services for an agency's use.

(iii) Providing prior to formal solicitation of any covered Federal action any information not specifically requested but necessary for an agency to make an informed decision about initiation of a covered Federal action;

(iv) Participating in technical discussions regarding the preparation of an unsolicited proposal prior to its official submission; and

(v) Making capability presentations prior to formal solicitation of any covered Federal action by persons seeking awards from an agency pursuant to the provisions of the Small Business Act, as amended by Pub.L. 95-507, and subsequent amendments.

(2) Professional and technical services. (i) A payment of reasonable compensation made to an officer or employee of a person requesting or receiving a covered Federal action or an extension, continuation, renewal, amendment, or modification of a covered Federal action, if payment is for professional or technical services rendered directly in the preparation, submission, or negotiation of any bid, proposal, or application for that Federal action or for meeting requirements imposed by or pursuant to law as a condition for receiving that Federal action.

(ii) Any reasonable payment to a person, other than an officer or employee of a person requesting or receiving a covered Federal action or an extension, continuation, renewal, amendment, or modification of a covered Federal action if the payment is for professional or technical services rendered directly in the preparation, submission, or negotiation of any bid, proposal, or application for that Federal action or for meeting requirements imposed by or pursuant to law as a condition for receiving that Federal action. Persons other than officers or employees of a person requesting or receiving a covered Federal action include consultants and trade associations.

(iii) As used in paragraph (c)(2) of this clause, "professional and technical services" are limited to advice and analysis directly applying any professional or technical discipline (for examples, see FAR 3.803(a)(2)(iii)).

(iv) Requirements imposed by or pursuant to law as a condition for receiving a covered Federal award include those required by law or regulation and any other requirements in the actual award documents.

(3) Only those communications and services expressly authorized by paragraphs (c)(1) and (2) of this clause are permitted.

(d) Disclosure. (1) If the Contractor did not submit OMB Standard Form LLL, Disclosure of Lobbying Activities, with its offer, but registrants under the Lobbying Disclosure Act of 1995 have subsequently made a lobbying contact on behalf of the Contractor with respect to this contract, the Contractor shall complete and submit OMB Standard Form LLL to provide the name of the lobbying registrants, including the individuals performing the services.

(2) If the Contractor did submit OMB Standard Form LLL disclosure pursuant to paragraph (d) of the provision at FAR 52.203-11, Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions, and a change occurs that affects Block 10 of the OMB Standard Form LLL (name and address of lobbying registrant or individuals performing services), the Contractor shall, at the end of the calendar quarter in which the change occurs, submit to the Contracting Officer within 30 days an updated disclosure using OMB Standard Form LLL.

(e) Penalties. (1) Any person who makes an expenditure prohibited under paragraph (b) of this clause or who fails to file or amend the disclosure to be filed or amended by paragraph (d) of this clause shall be subject to civil penalties as provided for by 31 U.S.C.1352. An imposition of a civil penalty does not prevent the Government from seeking any other remedy that may be applicable.

(2) Contractors may rely without liability on the representation made by their subcontractors in the certification and disclosure form.

(f) Cost allowability. Nothing in this clause makes allowable or reasonable any costs which would otherwise be unallowable or unreasonable. Conversely, costs made specifically unallowable by the requirements in this clause will not be made allowable under any other provision.

(g) Subcontracts. (1) The Contractor shall obtain a declaration, including the certification and disclosure in paragraphs (c) and (d) of the provision at FAR 52.203-11, Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions, from each person requesting or receiving a subcontract exceeding \$100,000 under this contract. The Contractor or subcontractor that awards the subcontract shall retain the declaration.

(2) A copy of each subcontractor disclosure form (but not certifications) shall be forwarded from tier to tier until received by the prime Contractor. The prime Contractor shall, at the end of the calendar quarter in which the disclosure form is submitted by the subcontractor, submit to the Contracting Officer within 30 days a copy of all disclosures. Each subcontractor certification shall be retained in the subcontract file of the awarding Contractor.

(3) The Contractor shall include the substance of this clause, including this paragraph (g), in any subcontract exceeding \$100,000.

(End of clause)

CLAUSES INCORPORATED BY FULL TEXT

52.203-13 CONTRACTOR CODE OF BUSINESS ETHICS AND CONDUCT (APR 2010)

(a) Definitions. As used in this clause--

Agent means any individual, including a director, an officer, an employee, or an independent Contractor, authorized to act on behalf of the organization.

Full cooperation—

(1) Means disclosure to the Government of the information sufficient for law enforcement to identify the nature and extent of the offense and the individuals responsible for the conduct. It includes providing timely and complete response to Government auditors' and investigators' request for documents and access to employees with information;

(2) Does not foreclose any Contractor rights arising in law, the FAR, or the terms of the contract. It does not require--

(i) A Contractor to waive its attorney-client privilege or the protections afforded by the attorney work product doctrine; or

(ii) Any officer, director, owner, or employee of the Contractor, including a sole proprietor, to waive his or her attorney client privilege or Fifth Amendment rights; and

(3) Does not restrict a Contractor from--

(i) Conducting an internal investigation; or

(ii) Defending a proceeding or dispute arising under the contract or related to a potential or disclosed violation.

Principal means an officer, director, owner, partner, or a person having primary management or supervisory responsibilities within a business entity (e.g., general manager; plant manager; head of a division or business segment; and similar positions).

Subcontract means any contract entered into by a subcontractor to furnish supplies or services for performance of a prime contract or a subcontract.

Subcontractor means any supplier, distributor, vendor, or firm that furnished supplies or services to or for a prime contractor or another subcontractor.

United States means the 50 States, the District of Columbia, and outlying areas.

(b) Code of business ethics and conduct. (1) Within 30 days after contract award, unless the Contracting Officer establishes a longer time period, the Contractor shall--

(i) Have a written code of business ethics and conduct;

(ii) Make a copy of the code available to each employee engaged in performance of the contract.

(2) The Contractor shall--

(i) Exercise due diligence to prevent and detect criminal conduct; and

(ii) Otherwise promote an organizational culture that encourages ethical conduct and a commitment to compliance with the law.

(3)(i) The Contractor shall timely disclose, in writing, to the agency Office of the Inspector General (OIG), with a copy to the Contracting Officer, whenever, in connection with the award, performance, or closeout of this contract or any subcontract thereunder, the Contractor has credible evidence that a principal, employee, agent, or subcontractor of the Contractor has committed--

(A) A violation of Federal criminal law involving fraud, conflict of interest, bribery, or gratuity violations found in Title 18 of the United States Code; or

(B) A violation of the civil False Claims Act (31 U.S.C. 3729-3733).

(ii) The Government, to the extent permitted by law and regulation, will safeguard and treat information obtained pursuant to the Contractor's disclosure as confidential where the information has been marked "confidential" or "proprietary" by the company. To the extent permitted by law and regulation, such information will not be released by the Government to the public pursuant to a Freedom of Information Act request, 5 U.S.C. Section 552, without prior notification to the Contractor. The Government may transfer documents provided by the Contractor to any department or agency within the Executive Branch if the information relates to matters within the organization's jurisdiction.

(iii) If the violation relates to an order against a Governmentwide acquisition contract, a multi-agency contract, a multiple-award schedule contract such as the Federal Supply Schedule, or any other procurement instrument intended for use by multiple agencies, the Contractor shall notify the OIG of the ordering agency and the IG of the agency responsible for the basic contract.

(c) Business ethics awareness and compliance program and internal control system. This paragraph (c) does not apply if the Contractor has represented itself as a small business concern pursuant to the award of this contract or if this contract is for the acquisition of a commercial item as defined at FAR 2.101. The Contractor shall establish the following within 90 days after contract award, unless the Contracting Officer establishes a longer time period:

(1) An ongoing business ethics awareness and compliance program.

(i) This program shall include reasonable steps to communicate periodically and in a practical manner the Contractor's standards and procedures and other aspects of the Contractor's business ethics awareness and compliance program and internal control system, by conducting effective training programs and otherwise disseminating information appropriate to an individual's respective roles and responsibilities.

(ii) The training conducted under this program shall be provided to the Contractor's principals and employees, and as appropriate, the Contractor's agents and subcontractors.

(2) An internal control system.

(i) The Contractor's internal control system shall--

(A) Establish standards and procedures to facilitate timely discovery of improper conduct in connection with Government contracts; and

(B) Ensure corrective measures are promptly instituted and carried out.

(ii) At a minimum, the Contractor's internal control system shall provide for the following:

(A) Assignment of responsibility at a sufficiently high level and adequate resources to ensure effectiveness of the business ethics awareness and compliance program and internal control system.

(B) Reasonable efforts not to include an individual as a principal, whom due diligence would have exposed as having engaged in conduct that is in conflict with the Contractor's code of business ethics and conduct.

(C) Periodic reviews of company business practices, procedures, policies, and internal controls for compliance with the Contractor's code of business ethics and conduct and the special requirements of Government contracting, including--

- (1) Monitoring and auditing to detect criminal conduct;
- (2) Periodic evaluation of the effectiveness of the business ethics awareness and compliance program and internal control system, especially if criminal conduct has been detected; and
- (3) Periodic assessment of the risk of criminal conduct, with appropriate steps to design, implement, or modify the business ethics awareness and compliance program and the internal control system as necessary to reduce the risk of criminal conduct identified through this process.
- (D) An internal reporting mechanism, such as a hotline, which allows for anonymity or confidentiality, by which employees may report suspected instances of improper conduct, and instructions that encourage employees to make such reports.
- (E) Disciplinary action for improper conduct or for failing to take reasonable steps to prevent or detect improper conduct.
- (F) Timely disclosure, in writing, to the agency OIG, with a copy to the Contracting Officer, whenever, in connection with the award, performance, or closeout of any Government contract performed by the Contractor or a subcontractor thereunder, the Contractor has credible evidence that a principal, employee, agent, or subcontractor of the Contractor has committed a violation of Federal criminal law involving fraud, conflict of interest, bribery, or gratuity violations found in Title 18 U.S.C. or a violation of the civil False Claims Act (31 U.S.C. 3729-3733).
 - (1) If a violation relates to more than one Government contract, the Contractor may make the disclosure to the agency OIG and Contracting Officer responsible for the largest dollar value contract impacted by the violation.
 - (2) If the violation relates to an order against a Governmentwide acquisition contract, a multi-agency contract, a multiple-award schedule contract such as the Federal Supply Schedule, or any other procurement instrument intended for use by multiple agencies, the contractor shall notify the OIG of the ordering agency and the IG of the agency responsible for the basic contract, and the respective agencies' contracting officers.
 - (3) The disclosure requirement for an individual contract continues until at least 3 years after final payment on the contract.
 - (4) The Government will safeguard such disclosures in accordance with paragraph (b)(3)(ii) of this clause.
- (G) Full cooperation with any Government agencies responsible for audits, investigations, or corrective actions.
- (d) Subcontracts.
 - (1) The Contractor shall include the substance of this clause, including this paragraph (d), in subcontracts that have a value in excess of \$5,000,000 and a performance period of more than 120 days.
 - (2) In altering this clause to identify the appropriate parties, all disclosures of violation of the civil False Claims Act or of Federal criminal law shall be directed to the agency Office of the Inspector General, with a copy to the Contracting Officer.
- (End of clause)

CLAUSES INCORPORATED BY FULL TEXT

52.204-2 SECURITY REQUIREMENTS (AUG 1996) - ALTERNATE II (APR 1984)

- (a) This clause applies to the extent that this contract involves access to information classified "Confidential," "Secret," or "Top Secret."
- (b) The Contractor shall comply with (1) the Security Agreement (DD Form 441), including the National Industrial Security Program Operating Manual (DOD 5220.22-M); and (2) any revisions to that manual, notice of which has been furnished to the Contractor.
- (c) If, subsequent to the date of this contract, the security classification or security requirements under this contract are changed by the Government and if the changes cause an increase or decrease in security costs or otherwise affect any other term or condition of this contract, the contract shall be subject to an equitable adjustment as if the changes were directed under the Changes clause of this contract.
- (d) The Contractor agrees to insert terms that conform substantially to the language of this clause, including this paragraph (d) but excluding any reference to the Changes clause of this contract, in all subcontracts under this contract that involve access to classified information.
- (e) The Contractor shall be responsible for furnishing to each employee and for requiring each employee engaged on the work to display such identification as may be approved and directed by the Contracting Officer. All prescribed identification shall immediately be delivered to the Contracting Officer, for cancellation upon the release of any employee. When required by the Contracting Officer, the Contractor shall obtain and submit fingerprints of all persons employed or to be employed on the project.

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52.204-4 PRINTED OR COPIED DOUBLE-SIDED ON RECYCLED PAPER (AUG 2000)

- (a) Definitions. As used in this clause--

"Postconsumer material" means a material or finished product that has served its intended use and has been discarded for disposal or recovery, having completed its life as a consumer item. Postconsumer material is a part of the broader category of "recovered material." For paper and paper products, postconsumer material means "postconsumer fiber" defined by the U.S. Environmental Protection Agency (EPA) as--

- (1) Paper, paperboard, and fibrous materials from retail stores, office buildings, homes, and so forth, after they have passed through their end-usage as a consumer item, including: used corrugated boxes; old newspapers; old magazines; mixed waste paper; tabulating cards; and used cordage; or
- (2) All paper, paperboard, and fibrous materials that enter and are collected from municipal solid waste; but not
- (3) Fiber derived from printers' over-runs, converters' scrap, and over-issue publications.

"Printed or copied double-sided" means printing or reproducing a document so that information is on both sides of a sheet of paper.

"Recovered material," for paper and paper products, is defined by EPA in its Comprehensive Procurement Guideline as "recovered fiber" and means the following materials:

- (1) Postconsumer fiber; and

(2) Manufacturing wastes such as--

(i) Dry paper and paperboard waste generated after completion of the papermaking process (that is, those manufacturing operations up to and including the cutting and trimming of the paper machine reel into smaller rolls or rough sheets) including: envelope cuttings, bindery trimmings, and other paper and paperboard waste resulting from printing, cutting, forming, and other converting operations; bag, box, and carton manufacturing wastes; and butt rolls, mill wrappers, and rejected unused stock; and

(ii) Repulped finished paper and paperboard from obsolete inventories of paper and paperboard manufacturers, merchants, wholesalers, dealers, printers, converters, or others.

(b) In accordance with Section 101 of Executive Order 13101 of September 14, 1998, Greening the Government through Waste Prevention, Recycling, and Federal Acquisition, the Contractor is encouraged to submit paper documents, such as offers, letters, or reports, that are printed or copied double-sided on recycled paper that meet minimum content standards specified in Section 505 of Executive Order 13101, when not using electronic commerce methods to submit information or data to the Government.

(c) If the Contractor cannot purchase high-speed copier paper, offset paper, forms bond, computer printout paper, carbonless paper, file folders, white wove envelopes, writing and office paper, book paper, cotton fiber paper, and cover stock meeting the 30 percent postconsumer material standard for use in submitting paper documents to the Government, it should use paper containing no less than 20 percent postconsumer material. This lesser standard should be used only when paper meeting the 30 percent postconsumer material standard is not obtainable at a reasonable price or does not meet reasonable performance standards.

(End of clause)

CLAUSES INCORPORATED BY FULL TEXT

52.204-7 CENTRAL CONTRACTOR REGISTRATION (APR 2008)

(a) Definitions. As used in this clause--

Central Contractor Registration (CCR) database means the primary Government repository for Contractor information required for the conduct of business with the Government.

Data Universal Numbering System (DUNS) number means the 9-digit number assigned by Dun and Bradstreet, Inc. (D&B) to identify unique business entities.

Data Universal Numbering System +4 (DUNS+4) number means the DUNS number assigned by D&B plus a 4-character suffix that may be assigned by a business concern. (D&B has no affiliation with this 4-character suffix.) This 4-character suffix may be assigned at the discretion of the business concern to establish additional CCR records for identifying alternative Electronic Funds Transfer (EFT) accounts (see the FAR at Subpart 32.11) for the same parent concern.

Registered in the CCR database means that--

(1) The Contractor has entered all mandatory information, including the DUNS number or the DUNS+4 number, into the CCR database; and

(2) The Government has validated all mandatory data fields, to include validation of the Taxpayer Identification Number (TIN) with the Internal Revenue Service (IRS), and has marked the record ``Active". The Contractor will be required to provide consent for TIN validation to the Government as a part of the CCR registration process.

(b)(1) By submission of an offer, the offeror acknowledges the requirement that a prospective awardee shall be registered in the CCR database prior to award, during performance, and through final payment of any contract, basic agreement, basic ordering agreement, or blanket purchasing agreement resulting from this solicitation.

(2) The offeror shall enter, in the block with its name and address on the cover page of its offer, the annotation "DUNS" or "DUNS +4" followed by the DUNS or DUNS +4 number that identifies the offeror's name and address exactly as stated in the offer. The DUNS number will be used by the Contracting Officer to verify that the offeror is registered in the CCR database.

(c) If the offeror does not have a DUNS number, it should contact Dun and Bradstreet directly to obtain one.

(1) An offeror may obtain a DUNS number--

(i) Via the Internet at <http://fedgov.dnb.com/webform> or if the offeror does not have internet access, it may call Dun and Bradstreet at 1-866-705-5711 if located within the United States; or

(ii) If located outside the United States, by contacting the local Dun and Bradstreet office. The offeror should indicate that it is an offeror for a U.S. Government contract when contacting the local Dun and Bradstreet office.

(2) The offeror should be prepared to provide the following information:

(i) Company legal business.

(ii) Tradestyle, doing business, or other name by which your entity is commonly recognized.

(iii) Company Physical Street Address, City, State, and Zip Code.

(iv) Company Mailing Address, City, State and Zip Code (if separate from physical).

(v) Company Telephone Number.

(vi) Date the company was started.

(vii) Number of employees at your location.

(viii) Chief executive officer/key manager.

(ix) Line of business (industry).

(x) Company Headquarters name and address (reporting relationship within your entity).

(d) If the Offeror does not become registered in the CCR database in the time prescribed by the Contracting Officer, the Contracting Officer will proceed to award to the next otherwise successful registered Offeror.

(e) Processing time, which normally takes 48 hours, should be taken into consideration when registering. Offerors who are not registered should consider applying for registration immediately upon receipt of this solicitation.

(f) The Contractor is responsible for the accuracy and completeness of the data within the CCR database, and for any liability resulting from the Government's reliance on inaccurate or incomplete data. To remain registered in the CCR database after the initial registration, the Contractor is required to review and update on an annual basis from the date

of initial registration or subsequent updates its information in the CCR database to ensure it is current, accurate and complete. Updating information in the CCR does not alter the terms and conditions of this contract and is not a substitute for a properly executed contractual document.

(g)(1)(i) If a Contractor has legally changed its business name, “doing business as” name, or division name (whichever is shown on the contract), or has transferred the assets used in performing the contract, but has not completed the necessary requirements regarding novation and change-of-name agreements in Subpart 42.12, the Contractor shall provide the responsible Contracting Officer a minimum of one business day's written notification of its intention to (A) change the name in the CCR database; (B) comply with the requirements of Subpart 42.12 of the FAR; and (C) agree in writing to the timeline and procedures specified by the responsible Contracting Officer. The Contractor must provide with the notification sufficient documentation to support the legally changed name.

(ii) If the Contractor fails to comply with the requirements of paragraph (g)(1)(i) of this clause, or fails to perform the agreement at paragraph (g)(1)(i)(C) of this clause, and, in the absence of a properly executed novation or change-of-name agreement, the CCR information that shows the Contractor to be other than the Contractor indicated in the contract will be considered to be incorrect information within the meaning of the “Suspension of Payment” paragraph of the electronic funds transfer (EFT) clause of this contract.

(2) The Contractor shall not change the name or address for EFT payments or manual payments, as appropriate, in the CCR record to reflect an assignee for the purpose of assignment of claims (see FAR Subpart 32.8, Assignment of Claims). Assignees shall be separately registered in the CCR database. Information provided to the Contractor's CCR record that indicates payments, including those made by EFT, to an ultimate recipient other than that Contractor will be considered to be incorrect information within the meaning of the “Suspension of payment” paragraph of the EFT clause of this contract.

(h) Offerors and Contractors may obtain information on registration and annual confirmation requirements via the internet at <http://www.ccr.gov> or by calling 1-888-227-2423, or 269-961-5757.

(End of clause)

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52.204-10 REPORTING EXECUTIVE COMPENSATION AND FIRST-TIER SUBCONTRACT AWARDS (JUL 2010)

(a) Definitions. As used in this clause:

Executive means officers, managing partners, or any other employees in management positions.

First-tier subcontract means a subcontract awarded directly by a Contractor to furnish supplies or services (including construction) for performance of a prime contract, but excludes supplier agreements with vendors, such as long-term arrangements for materials or supplies that would normally be applied to a Contractor's general and administrative expenses or indirect cost.

Total compensation means the cash and noncash dollar value earned by the executive during the Contractor's preceding fiscal year and includes the following (for more information see 17 CFR 229.402(c)(2)):

(1) Salary and bonus.

(2) Awards of stock, stock options, and stock appreciation rights. Use the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2004) (FAS 123R), Shared Based Payments.

(3) Earnings for services under non-equity incentive plans. This does not include group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of executives, and are available generally to all salaried employees.

(4) Change in pension value. This is the change in present value of defined benefit and actuarial pension plans.

(5) Above-market earnings on deferred compensation which is not tax-qualified.

(6) Other compensation, if the aggregate value of all such other compensation (e.g., severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the executive exceeds \$10,000.

(b) Section 2(d)(2) of the Federal Funding Accountability and Transparency Act of 2006 (Pub. L. 109-282), as amended by section 6202 of the Government Funding Transparency Act of 2008 (Pub. L. 110-252), requires the Contractor to report information on subcontract awards. The law requires all reported information be made public, therefore, the Contractor is responsible for notifying its subcontractors that the required information will be made public.

(c)(1) Unless otherwise directed by the contracting officer, by the end of the month following the month of award of a first-tier subcontract with a value of \$25,000 or more, (and any modifications to these subcontracts that change previously reported data), the Contractor shall report the following information at <http://www.fsrc.gov> for each first-tier subcontract. (The Contractor shall follow the instructions at <http://www.fsrc.gov> to report the data.)

(i) Unique identifier (DUNS Number) for the subcontractor receiving the award and for the subcontractor's parent company, if the subcontractor has a parent company.

(ii) Name of the subcontractor.

(iii) Amount of the subcontract award.

(iv) Date of the subcontract award.

(v) A description of the products or services (including construction) being provided under the subcontract, including the overall purpose and expected outcomes or results of the subcontract.

(vi) Subcontract number (the subcontract number assigned by the Contractor).

(vii) Subcontractor's physical address including street address, city, state, and country. Also include the nine-digit zip code and congressional district.

(viii) Subcontractor's primary performance location including street address, city, state, and country. Also include the nine-digit zip code and congressional district.

(ix) The prime contract number, and order number if applicable.

(x) Awarding agency name and code.

(xi) Funding agency name and code.

(xii) Government contracting office code.

(xiii) Treasury account symbol (TAS) as reported in FPDS.

(xiv) The applicable North American Industry Classification System code (NAICS).

(2) By the end of the month following the month of a contract award, and annually thereafter, the Contractor shall report the names and total compensation of each of the five most highly compensated executives for the Contractor's preceding completed fiscal year at <http://www.ccr.gov>, if--

(i) In the Contractor's preceding fiscal year, the Contractor received--

(A) 80 percent or more of its annual gross revenues from Federal contracts (and subcontracts), loans, grants (and subgrants) and cooperative agreements; and

(B) \$25,000,000 or more in annual gross revenues from Federal contracts (and subcontracts), loans, grants (and subgrants) and cooperative agreements; and

(ii) The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/execomp.htm>.)

(3) Unless otherwise directed by the contracting officer, by the end of the month following the month of a first-tier subcontract with a value of \$25,000 or more, and annually thereafter, the Contractor shall report the names and total compensation of each of the five most highly compensated executives for each first-tier subcontractor for the subcontractor's preceding completed fiscal year at <http://www.frs.gov>, if--

(i) In the subcontractor's preceding fiscal year, the subcontractor received--

(A) 80 percent or more of its annual gross revenues from Federal contracts (and subcontracts), loans, grants (and subgrants) and cooperative agreements; and

(B) \$25,000,000 or more in annual gross revenues from Federal contracts (and subcontracts), loans, grants (and subgrants) and cooperative agreements; and

(ii) The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/execomp.htm>.)

(d)(1) If the Contractor in the previous tax year had gross income, from all sources, under \$300,000, the Contractor is exempt from the requirement to report subcontractor awards.

(2) If a subcontractor in the previous tax year had gross income from all sources under \$300,000, the Contractor does not need to report awards to that subcontractor.

(e) Phase-in of reporting of subcontracts of \$25,000 or more.

(1) Until September 30, 2010, any newly awarded subcontract must be reported if the prime contract award amount was \$20,000,000 or more.

(2) From October 1, 2010, until February 28, 2011, any newly awarded subcontract must be reported if the prime contract award amount was \$550,000 or more.

(3) Starting March 1, 2011, any newly awarded subcontract must be reported if the prime contract award amount was \$25,000 or more.

(End of clause)

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52.209-6 PROTECTING THE GOVERNMENT'S INTEREST WHEN SUBCONTRACTING WITH CONTRACTORS DEBARRED, SUSPENDED, OR PROPOSED FOR DEBARMENT (SEP 2006)

(a) The Government suspends or debar Contractors to protect the Government's interests. The Contractor shall not enter into any subcontract in excess of the \$30,000 with a Contractor that is debarred, suspended, or proposed for debarment unless there is a compelling reason to do so.

(b) The Contractor shall require each proposed first-tier subcontractor, whose subcontract will exceed \$30,000, to disclose to the Contractor, in writing, whether as of the time of award of the subcontract, the subcontractor, or its principles, is or is not debarred, suspended, or proposed for debarment by the Federal Government.

(c) A corporate officer or a designee of the Contractor shall notify the Contracting Officer, in writing, before entering into a subcontract with a party that is debarred, suspended, or proposed for debarment (see FAR 9.404 for information on the in the Excluded Parties List System). The notice must include the following:

(1) The name of the subcontractor.

(2) The Contractor's knowledge of the reasons for the subcontractor being in the Excluded Parties List System.

(3) The compelling reason(s) for doing business with the subcontractor notwithstanding its inclusion in the Excluded Parties List System.

(4) The systems and procedures the Contractor has established to ensure that it is fully protecting the Government's interests when dealing with such subcontractor in view of the specific basis for the party's debarment, suspension, or proposed debarment.

(End of clause)

52.209-8 UPDATES OF INFORMATION REGARDING RESPONSIBILITY MATTERS (APR 2010)

(a) The Contractor shall update the information in the Federal Awardee Performance and Integrity Information System (FAPIS) on a semi-annual basis, throughout the life of the contract, by entering the required information in the Central Contractor Registration database at <http://www.ccr.gov> (see 52.204-7).

(b)(1) The Contractor will receive notification when the Government posts new information to the Contractor's record.

(2) The Contractor will have an opportunity to post comments regarding information that has been posted by the Government. The comments will be retained as long as the associated information is retained, i.e., for a total period of 6 years. Contractor comments will remain a part of the record unless the Contractor revises them.

(3) With the exception of the Contractor, only Government personnel and authorized users performing business on behalf of the Government will be able to view the Contractor's record in the system. Public requests for system information will be handled under Freedom of Information Act procedures, including, where appropriate, procedures promulgated under E.O. 12600.

(End of clause)

52.211-5 MATERIAL REQUIREMENTS (AUG 2000)

(a) Definitions.

As used in this clause--

New means composed of previously unused components, whether manufactured from virgin material, recovered material in the form of raw material, or materials and by-products generated from, and reused within, an original manufacturing process; provided that the supplies meet contract requirements, including but not limited to, performance, reliability, and life expectancy.

Reconditioned means restored to the original normal operating condition by readjustments and material replacement.

Recovered material means waste materials and by-products recovered or diverted from solid waste, but the term does not include those materials and by-products generated from, and commonly reused within, an original manufacturing process.

Remanufactured means factory rebuilt to original specifications.

Virgin material means--

(1) Previously unused raw material, including previously unused copper, aluminum, lead, zinc, iron, other metal or metal ore; or

(2) Any undeveloped resource that is, or with new technology will become, a source of raw materials.

(b) Unless this contract otherwise requires virgin material or supplies composed of or manufactured from virgin material, the Contractor shall provide supplies that are new, reconditioned, or remanufactured, as defined in this clause.

(c) A proposal to provide unused former Government surplus property shall include a complete description of the material, the quantity, the name of the Government agency from which acquired, and the date of acquisition.

(d) A proposal to provide used, reconditioned, or remanufactured supplies shall include a detailed description of such supplies and shall be submitted to the Contracting Officer for approval.

(e) Used, reconditioned, or remanufactured supplies, or unused former Government surplus property, may be used in contract performance if the Contractor has proposed the use of such supplies, and the Contracting Officer has authorized their use.

(End of clause)

52.211-10 COMMENCEMENT, PROSECUTION, AND COMPLETION OF WORK (APR 1984)

The Contractor shall be required to (a) commence work under this contract within **15** calendar days after the date the Contractor receives the notice to proceed, (b) prosecute the work diligently, and (c) complete the entire work ready for use not later than **the date stated in each Task Order**. The time stated for completion shall include final cleanup of the premises.

*The Contracting Officer shall specify either a number of days after the date the contractor receives the notice to proceed, or a calendar date.

(End of clause)

52.211-12 LIQUIDATED DAMAGES--CONSTRUCTION (SEP 2000)

(a) If the Contractor fails to complete the work within the time specified in the contract, the Contractor shall pay liquidated damages to the Government in the amount **TO BE DETERMINED AT TASK ORDER LEVEL** for each calendar day of delay until the work is completed or accepted.

(b) If the Government terminates the Contractor's right to proceed, liquidated damages will continue to accrue until the work is completed. These liquidated damages are in addition to excess costs of repurchase under the Termination clause.

(End of clause)

52.211-13 TIME EXTENSIONS (SEP 2000)

Time extensions for contract changes will depend upon the extent, if any, by which the changes cause delay in the completion of the various elements of construction. The change order granting the time extension may provide that the contract completion date will be extended only for those specific elements related to the changed work and that the remaining contract completion dates for all other portions of the work will not be altered. The change order also may provide an equitable readjustment of liquidated damages under the new completion schedule.

(End of clause)

52.211-16 VARIATION IN QUANTITY (APR 1984)

(a) A variation in the quantity of any item called for by this contract will not be accepted unless the variation has been caused by conditions of loading, shipping, or packing, or allowances in manufacturing processes, and then only

to the extent, if any, specified in paragraph (b) below.

(b) The permissible variation shall be limited to:

TO BE DETERMINED AT TASK ORDER

____ Percent increase

____ Percent decrease

This increase or decrease shall apply to ____.

(End of clause)

52.211-18 VARIATION IN ESTIMATED QUANTITY (APR 1984)

If the quantity of a unit-priced item in this contract is an estimated quantity and the actual quantity of the unit-priced item varies more than 15 percent above or below the estimated quantity, an equitable adjustment in the contract price shall be made upon demand of either party. The equitable adjustment shall be based upon any increase or decrease in costs due solely to the variation above 115 percent or below 85 percent of the estimated quantity. If the quantity variation is such as to cause an increase in the time necessary for completion, the Contractor may request, in writing, an extension of time, to be received by the Contracting Officer within 10 days from the beginning of the delay, or within such further period as may be granted by the Contracting Officer before the date of final settlement of the contract. Upon the receipt of a written request for an extension, the Contracting Officer shall ascertain the facts and make an adjustment for extending the completion date as, in the judgement of the Contracting Officer, is justified.

52.215-2 AUDIT AND RECORDS--NEGOTIATION (MAR 2009)

(a) As used in this clause, "records" includes books, documents, accounting procedures and practices, and other data, regardless of type and regardless of whether such items are in written form, in the form of computer data, or in any other form.

(b) Examination of costs. If this is a cost-reimbursement, incentive, time-and-materials, labor-hour, or price redeterminable contract, or any combination of these, the Contractor shall maintain and the Contracting Officer, or an authorized representative of the Contracting Officer, shall have the right to examine and audit all records and other evidence sufficient to reflect properly all costs claimed to have been incurred or anticipated to be incurred directly or indirectly in performance of this contract. This right of examination shall include inspection at all reasonable times of the Contractor's plants, or parts of them, engaged in performing the contract.

(c) Cost or pricing data. If the Contractor has been required to submit cost or pricing data in connection with any pricing action relating to this contract, the Contracting Officer, or an authorized representative of the Contracting Officer, in order to evaluate the accuracy, completeness, and currency of the cost or pricing data, shall have the right to examine and audit all of the Contractor's records, including computations and projections, related to--

- (1) The proposal for the contract, subcontract, or modification;
- (2) The discussions conducted on the proposal(s), including those related to negotiating;
- (3) Pricing of the contract, subcontract, or modification; or
- (4) Performance of the contract, subcontract or modification.

(d) Comptroller General. (1) The Comptroller General of the United States, or an authorized representative, shall have access to and the right to examine any of the Contractor's directly pertinent records involving transactions related to this contract or a subcontract hereunder and to interview any current employee regarding such transactions.

(2) This paragraph may not be construed to require the Contractor or subcontractor to create or maintain any record that the Contractor or subcontractor does not maintain in the ordinary course of business or pursuant to a provision of law.

(e) Reports. If the Contractor is required to furnish cost, funding, or performance reports, the Contracting Officer or an authorized representative of the Contracting Officer shall have the right to examine and audit the supporting records and materials, for the purpose of evaluating (1) the effectiveness of the Contractor's policies and procedures to produce data compatible with the objectives of these reports and (2) the data reported.

(f) Availability. The Contractor shall make available at its office at all reasonable times the records, materials, and other evidence described in paragraphs (a), (b), (c), (d), and (e) of this clause, for examination, audit, or reproduction, until 3 years after final payment under this contract or for any shorter period specified in Subpart 4.7, Contractor Records Retention, of the Federal Acquisition Regulation (FAR), or for any longer period required by statute or by other clauses of this contract. In addition--

(1) If this contract is completely or partially terminated, the Contractor shall make available the records relating to the work terminated until 3 years after any resulting final termination settlement; and

(2) The Contractor shall make available records relating to appeals under the Disputes clause or to litigation or the settlement of claims arising under or relating to this contract until such appeals, litigation, or claims are finally resolved.

(g) The Contractor shall insert a clause containing all the terms of this clause, including this paragraph (g), in all subcontracts under this contract that exceed the simplified acquisition threshold, and--

(1) That are cost-reimbursement, incentive, time-and-materials, labor-hour, or price-redeterminable type or any combination of these;

(2) For which cost or pricing data are required; or

(3) That require the subcontractor to furnish reports as discussed in paragraph (e) of this clause.

The clause may be altered only as necessary to identify properly the contracting parties and the Contracting Officer under the Government prime contract.

(End of clause)

52.215-10 PRICE REDUCTION FOR DEFECTIVE COST OR PRICING DATA (OCT 1997)

(a) If any price, including profit or fee, negotiated in connection with this contract, or any cost reimbursable under this contract, was increased by any significant amount because--

(1) The Contractor or a subcontractor furnished cost or pricing data that were not complete, accurate, and current as certified in its Certificate of Current Cost or Pricing Data;

(2) A subcontractor or prospective subcontractor furnished the Contractor cost or pricing data that were not complete, accurate, and current as certified in the Contractor's Certificate of Current Cost or Pricing Data; or

(3) Any of these parties furnished data of any description that were not accurate, the price or cost shall be reduced accordingly and the contract shall be modified to reflect the reduction.

(b) Any reduction in the contract price under paragraph (a) of this clause due to defective data from a prospective subcontractor that was not subsequently awarded the subcontract shall be limited to the amount, plus applicable overhead and profit markup, by which--

(1) The actual subcontract; or

(2) The actual cost to the Contractor, if there was no subcontract, was less than the prospective subcontract cost estimate submitted by the Contractor; provided, that the actual subcontract price was not itself affected by defective cost or pricing data.

(c)(1) If the Contracting Officer determines under paragraph (a) of this clause that a price or cost reduction should be made, the Contractor agrees not to raise the following matters as a defense:

(i) The Contractor or subcontractor was a sole source supplier or otherwise was in a superior bargaining position and thus the price of the contract would not have been modified even if accurate, complete, and current cost or pricing data had been submitted.

(ii) The Contracting Officer should have known that the cost or pricing data in issue were defective even though the Contractor or subcontractor took no affirmative action to bring the character of the data to the attention of the Contracting Officer.

(iii) The contract was based on an agreement about the total cost of the contract and there was no agreement about the cost of each item procured under the contract.

(iv) The Contractor or subcontractor did not submit a Certificate of Current Cost or Pricing Data.

(2)(i) Except as prohibited by subdivision (c)(2)(ii) of this clause, an offset in an amount determined appropriate by the Contracting Officer based upon the facts shall be allowed against the amount of a contract price reduction if--

(A) The Contractor certifies to the Contracting Officer that, to the best of the Contractor's knowledge and belief, the Contractor is entitled to the offset in the amount requested; and

(B) The Contractor proves that the cost or pricing data were available before the "as of" date specified on its Certificate of Current Cost or Pricing Data, and that the data were not submitted before such date.

(ii) An offset shall not be allowed if--

(A) The understated data were known by the Contractor to be understated before the "as of" date specified on its Certificate of Current Cost or Pricing Data; or

(B) The Government proves that the facts demonstrate that the contract price would not have increased in the amount to be offset even if the available data had been submitted before the "as of" date specified on its Certificate of Current Cost or Pricing Data.

(d) If any reduction in the contract price under this clause reduces the price of items for which payment was made prior to the date of the modification reflecting the price reduction, the Contractor shall be liable to and shall pay the United States at the time such overpayment is repaid--

(1) Simple interest on the amount of such overpayment to be computed from the date(s) of overpayment to the Contractor to the date the Government is repaid by the Contractor at the applicable underpayment rate effective for each quarter prescribed by the Secretary of the Treasury under 26 U.S.C. 6621(a)(2); and

A penalty equal to the amount of the overpayment, if the Contractor or subcontractor knowingly submitted cost or pricing data that were incomplete, inaccurate, or noncurrent.

(End of clause)

52.215-11 PRICE REDUCTION FOR DEFECTIVE COST OR PRICING DATA--MODIFICATIONS (OCT 1997)

(a) This clause shall become operative only for any modification to this contract involving a pricing adjustment expected to exceed the threshold for submission of cost or pricing data at FAR 15.403-4, except that this clause does not apply to any modification if an exception under FAR 15.403-1 applies.

(b) If any price, including profit or fee, negotiated in connection with any modification under this clause, or any cost reimbursable under this contract, was increased by any significant amount because (1) the Contractor or a subcontractor furnished cost or pricing data that were not complete, accurate, and current as certified in its Certificate of Current Cost or Pricing Data, (2) a subcontractor or prospective subcontractor furnished the Contractor cost or pricing data that were not complete, accurate, and current as certified in the Contractor's Certificate of Current Cost or Pricing Data, or (3) any of these parties furnished data of any description that were not accurate, the price or cost shall be reduced accordingly and the contract shall be modified to reflect the reduction. This right to a price reduction is limited to that resulting from defects in data relating to modifications for which this clause becomes operative under paragraph (a) of this clause.

(c) Any reduction in the contract price under paragraph (b) of this clause due to defective data from a prospective subcontractor that was not subsequently awarded the subcontract shall be limited to the amount, plus applicable overhead and profit markup, by which--

(1) The actual subcontract; or

(2) The actual cost to the Contractor, if there was no subcontract, was less than the prospective subcontract cost estimate submitted by the Contractor; provided, that the actual subcontract price was not itself affected by defective cost or pricing data.

(d)(1) If the Contracting Officer determines under paragraph (b) of this clause that a price or cost reduction should be made, the Contractor agrees not to raise the following matters as a defense:

(i) The Contractor or subcontractor was a sole source supplier or otherwise was in a superior bargaining position and thus the price of the contract would not have been modified even if accurate, complete, and current cost or pricing data had been submitted.

(ii) The Contracting Officer should have known that the cost or pricing data in issue were defective even though the Contractor or subcontractor took no affirmative action to bring the character of the data to the attention of the Contracting Officer.

(iii) The contract was based on an agreement about the total cost of the contract and there was no agreement about the cost of each item procured under the contract.

(iv) The Contractor or subcontractor did not submit a Certificate of Current Cost or Pricing Data.

(2)(i) Except as prohibited by subdivision (d)(2)(ii) of this clause, an offset in an amount determined appropriate by the Contracting Officer based upon the facts shall be allowed against the amount of a contract price reduction if--

(A) The Contractor certifies to the Contracting Officer that, to the best of the Contractor's knowledge and belief, the Contractor is entitled to the offset in the amount requested; and

(B) The Contractor proves that the cost or pricing data were available before the "as of" date specified on its Certificate of Current Cost or Pricing Data, and that the data were not submitted before such date.

(ii) An offset shall not be allowed if--

(A) The understated data were known by the Contractor to be understated before the "as of" date specified on its Certificate of Current Cost or Pricing Data; or

(B) The Government proves that the facts demonstrate that the contract price would not have increased in the amount to be offset even if the available data had been submitted before the "as of" date specified on its Certificate of Current Cost or Pricing Data.

(e) If any reduction in the contract price under this clause reduces the price of items for which payment was made prior to the date of the modification reflecting the price reduction, the Contractor shall be liable to and shall pay the United States at the time such overpayment is repaid--

(1) Simple interest on the amount of such overpayment to be computed from the date(s) of overpayment to the Contractor to the date the Government is repaid by the Contractor at the applicable underpayment rate effective for each quarter prescribed by the Secretary of the Treasury under 26 U.S.C. 6621(a)(2); and

A penalty equal to the amount of the overpayment, if the Contractor or subcontractor knowingly submitted cost or pricing data that were incomplete, inaccurate, or noncurrent.

(End of clause)

52.215-12 SUBCONTRACTOR COST OR PRICING DATA (OCT 1997)

(a) Before awarding any subcontract expected to exceed the threshold for submission of cost or pricing data at FAR 15.403-4, on the date of agreement on price or the date of award, whichever is later; or before pricing any subcontract modification involving a pricing adjustment expected to exceed the threshold for submission of cost or pricing data at FAR 15.403-4, the Contractor shall require the subcontractor to submit cost or pricing data (actually or by specific identification in writing), unless an exception under FAR 15.403-1 applies.

(b) The Contractor shall require the subcontractor to certify in substantially the form prescribed in FAR 15.406-2 that, to the best of its knowledge and belief, the data submitted under paragraph (a) of this clause were accurate, complete, and current as of the date of agreement on the negotiated price of the subcontract or subcontract modification.

(c) In each subcontract that exceeds the threshold for submission of cost or pricing data at FAR 15.403-4, when entered into, the Contractor shall insert either--

(1) The substance of this clause, including this paragraph (c), if paragraph (a) of this clause requires submission of cost or pricing data for the subcontract; or

(2) The substance of the clause at FAR 52.215-13, Subcontractor Cost or Pricing Data--Modifications.

52.215-13 SUBCONTRACTOR COST OR PRICING DATA--MODIFICATIONS (OCT 1997)

(a) The requirements of paragraphs (b) and (c) of this clause shall--

(1) Become operative only for any modification to this contract involving a pricing adjustment expected to exceed the threshold for submission of cost or pricing data at FAR 15.403-4; and

(2) Be limited to such modifications.

(b) Before awarding any subcontract expected to exceed the threshold for submission of cost or pricing data at FAR 15.403-4, on the date of agreement on price or the date of award, whichever is later; or before pricing any subcontract modification involving a pricing adjustment expected to exceed the threshold for submission of cost or pricing data at FAR 15.403-4, the Contractor shall require the subcontractor to submit cost or pricing data (actually or by specific identification in writing), unless an exception under FAR 15.403-1 applies.

(c) The Contractor shall require the subcontractor to certify in substantially the form prescribed in FAR 15.406-2 that, to the best of its knowledge and belief, the data submitted under paragraph (b) of this clause were accurate, complete, and current as of the date of agreement on the negotiated price of the subcontract or subcontract modification.

The Contractor shall insert the substance of this clause, including this paragraph (d), in each subcontract that exceeds the threshold for submission of cost or pricing data at FAR 15.403-4 on the date of agreement on price or the date of award, whichever is later.

(End of clause)

52.215-15 PENSION ADJUSTMENTS AND ASSET REVERSIONS (OCT 2004)

(a) The Contractor shall promptly notify the Contracting Officer in writing when it determines that it will terminate a defined-benefit pension plan or otherwise recapture such pension fund assets.

(b) For segment closings, pension plan terminations, or curtailment of benefits, the amount of the adjustment shall be--

(1) For contracts and subcontracts that are subject to full coverage under the Cost Accounting Standards (CAS) Board rules and regulations (48 CFR Chapter 99), the amount measured, assigned, and allocated in accordance with 48 CFR 9904.413-50(c)(12); and

(2) For contracts and subcontracts that are not subject to full coverage under the CAS, the amount measured, assigned, and allocated in accordance with 48 CFR 9904.413-50(c)(12), except the numerator of the fraction at 48 CFR 9904.413-50(c)(12)(vi) shall be the sum of the pension plan costs allocated to all non-CAS covered contracts and subcontracts that are subject to Federal Acquisition Regulation (FAR) Subpart 31.2 or for which cost or pricing data were submitted.

(c) For all other situations where assets revert to the Contractor, or such assets are constructively received by it for any reason, the Contractor shall, at the Government's option, make a refund or give a credit to the Government for its equitable share of the gross amount withdrawn. The Government's equitable share shall reflect the Government's

participation in pension costs through those contracts for which cost or pricing data were submitted or that are subject to FAR Subpart 31.2.

(d) The Contractor shall include the substance of this clause in all subcontracts under this contract that meet the applicability requirement of FAR 15.408(g).

(End of clause)

52.215-17 WAIVER OF FACILITIES CAPITAL COST OF MONEY (OCT 1997)

The Contractor did not include facilities capital cost of money as a proposed cost of this contract. Therefore, it is an unallowable cost under this contract.

(End of clause)

52.215-18 REVERSION OR ADJUSTMENT OF PLANS FOR POSTRETIREMENT BENEFITS (PRB) OTHER THAN PENSIONS (JUL 2005)

(a) The Contractor shall promptly notify the Contracting Officer in writing when the Contractor determines that it will terminate or reduce the benefits of a PRB plan.

(b) If PRB fund assets revert or inure to the Contractor, or are constructively received by it under a plan termination or otherwise, the Contractor shall make a refund or give a credit to the Government for its equitable share as required by 31.205-6(o)(5) of the Federal Acquisition Regulation (FAR). When determining or agreeing on the method for recovery of the Government's equitable share, the contracting parties should consider the following methods: cost reduction, amortizing the credit over a number of years (with appropriate interest), cash refund, or some other agreed upon method. Should the parties be unable to agree on the method for recovery of the Government's equitable share, through good faith negotiations, the Contracting Officer shall designate the method of recovery.

(c) The Contractor shall insert the substance of this clause in all subcontracts that meet the applicability requirements of FAR 15.408(j).

(End of clause)

52.215-19 NOTIFICATION OF OWNERSHIP CHANGES (OCT 1997)

(a) The Contractor shall make the following notifications in writing:

(1) When the Contractor becomes aware that a change in its ownership has occurred, or is certain to occur, that could result in changes in the valuation of its capitalized assets in the accounting records, the Contractor shall notify the Administrative Contracting Officer (ACO) within 30 days.

(2) The Contractor shall also notify the ACO within 30 days whenever changes to asset valuations or any other cost changes have occurred or are certain to occur as a result of a change in ownership.

(b) The Contractor shall--

- (1) Maintain current, accurate, and complete inventory records of assets and their costs;
- (2) Provide the ACO or designated representative ready access to the records upon request;
- (3) Ensure that all individual and grouped assets, their capitalized values, accumulated depreciation or amortization, and remaining useful lives are identified accurately before and after each of the Contractor's ownership changes; and
- (4) Retain and continue to maintain depreciation and amortization schedules based on the asset records maintained before each Contractor ownership change.

The Contractor shall include the substance of this clause in all subcontracts under this contract that meet the applicability requirement of FAR 15.408(k).

(End of clause)

52.215-21 REQUIREMENTS FOR COST OR PRICING DATA OR INFORMATION OTHER THAN COST OR PRICING DATA--MODIFICATIONS (OCT 1997)--ALTERNATE III (OCT 1997)

(a) Exceptions from cost or pricing data. (1) In lieu of submitting cost or pricing data for modifications under this contract, for price adjustments expected to exceed the threshold set forth at FAR 15.403-4 on the date of the agreement on price or the date of the award, whichever is later, the Contractor may submit a written request for exception by submitting the information described in the following subparagraphs. The Contracting Officer may require additional supporting information, but only to the extent necessary to determine whether an exception should be granted, and whether the price is fair and reasonable--

(i) Identification of the law or regulation establishing the price offered. If the price is controlled under law by periodic rulings, reviews, or similar actions of a governmental body, attach a copy of the controlling document, unless it was previously submitted to the contracting office.

(ii) Information on modifications of contracts or subcontracts for commercial items. (A) If--

(1) The original contract or subcontract was granted an exception from cost or pricing data requirements because the price agreed upon was based on adequate price competition or prices set by law or regulation, or was a contract or subcontract for the acquisition of a commercial item; and

(2) The modification (to the contract or subcontract) is not exempted based on one of these exceptions, then the Contractor may provide information to establish that the modification would not change the contract or subcontract from a contract or subcontract for the acquisition of a commercial item to a contract or subcontract for the acquisition of an item other than a commercial item.

(B) For a commercial item exception, the Contractor shall provide, at a minimum, information on prices at which the same item or similar items have previously been sold that is adequate for evaluating the reasonableness of the price of the modification. Such information may include--

(1) For catalog items, a copy of or identification of the catalog and its date, or the appropriate pages for the offered items, or a statement that the catalog is on file in the buying office to which the proposal is being submitted. Provide a copy or describe current discount policies and price lists (published or unpublished), e.g., wholesale, original equipment manufacturer, or reseller. Also explain the basis of each offered price and its relationship to the established catalog price, including how the proposed price relates to the price of recent sales in quantities similar to the proposed quantities.

(2) For market-priced items, the source and date or period of the market quotation or other basis for market price, the base amount, and applicable discounts. In addition, describe the nature of the market.

(3) For items included on an active Federal Supply Service Multiple Award Schedule contract, proof that an exception has been granted for the schedule item.

(2) The Contractor grants the Contracting Officer or an authorized representative the right to examine, at any time before award, books, records, documents, or other directly pertinent records to verify any request for an exception under this clause, and the reasonableness of price. For items priced using catalog or market prices, or law or regulation, access does not extend to cost or profit information or other data relevant solely to the Contractor's determination of the prices to be offered in the catalog or marketplace.

(b) Requirements for cost or pricing data. If the Contractor is not granted an exception from the requirement to submit cost or pricing data, the following applies:

(1) The Contractor shall submit cost or pricing data and supporting attachments in accordance with Table 15-2 of FAR 15.408.

(c) Submit the cost portion of the proposal via the following electronic media: [Insert media format]

As soon as practicable after agreement on price, but before award (except for unpriced actions), the Contractor shall submit a Certificate of Current Cost or Pricing Data, as prescribed by FAR 15.406-2.

(End of clause)

52.216-7 ALLOWABLE COST AND PAYMENT (DEC 2002) -- ALTERNATE I (FEB 1997)

(a) Invoicing.

(1) The Government will make payments to the Contractor when requested as work progresses, but (except for small business concerns) not more often than once every 2 weeks, in amounts determined to be allowable by the Contracting Officer in accordance with Federal Acquisition Regulation (FAR) Subpart 31.2 in effect on the date of this contract and the terms of this contract. The Contractor may submit to an authorized representative of the Contracting Officer, in such form and reasonable detail as the representative may require, an invoice or voucher supported by a statement of the claimed allowable cost for performing this contract.

(2) Contract financing payments are not subject to the interest penalty provisions of the Prompt Payment Act. Interim payments made prior to the final payment under the contract are contract financing payments, except interim payments if this contract contains Alternate I to the clause at 52.232-25. (3) The designated payment office will make interim payments for contract financing on the 30TH day after the designated billing office receives a proper payment request. In the event that the Government requires an audit or other review of a specific payment request to ensure compliance with the terms and conditions of the contract, the designated payment office is not compelled to make payment by the specified due date.

(b) Reimbursing costs.

(1) For the purpose of reimbursing allowable costs (except as provided in paragraph (b)(2) of this clause, with respect to pension, deferred profit sharing, and employee stock ownership plan contributions), the term "costs" includes only-

(i) Those recorded costs that, at the time of the request for reimbursement, the Contractor has paid by cash, check, or other form of actual payment for items or services purchased directly for the contract;

(ii) When the Contractor is not delinquent in paying costs of contract performance in the ordinary course of business, costs incurred, but not necessarily paid, for-

(A) Supplies and services purchased directly for the contract and associated financing payments to subcontractors, provided payments determined due will be made-

(1) In accordance with the terms and conditions of a subcontract or invoice; and

(2) Ordinarily within 30 days of the submission of the Contractor's payment request to the Government;

(B) Materials issued from the Contractor's inventory and placed in the production process for use on the contract;

(C) Direct labor;

(D) Direct travel;

(E) Other direct in-house costs; and

(F) Properly allocable and allowable indirect costs, as shown in the records maintained by the Contractor for purposes of obtaining reimbursement under Government contracts; and

(iii) The amount of progress and other payments to the Contractor's subcontractors that either have been paid, or that the Contractor is required to pay pursuant to the clause of this contract entitled "Prompt Payment for Construction Contracts." Payments shall be made by cash, check, or other form of payment to the Contractor's subcontractors under similar cost standards.

(2) Accrued costs of Contractor contributions under employee pension plans shall be excluded until actually paid unless-

(i) The Contractor's practice is to make contributions to the retirement fund quarterly or more frequently; and

(ii) The contribution does not remain unpaid 30 days after the end of the applicable quarter or shorter payment period (any contribution remaining unpaid shall be excluded from the Contractor's indirect costs for payment purposes).

(3) Notwithstanding the audit and adjustment of invoices or vouchers under paragraph (g) of this clause, allowable indirect costs under this contract shall be obtained by applying indirect cost rates established in accordance with paragraph (d) of this clause.

(4) Any statements in specifications or other documents incorporated in this contract by reference designating performance of services or furnishing of materials at the Contractor's expense or at no cost to the Government shall be disregarded for purposes of cost-reimbursement under this clause.

(c) Small business concerns. A small business concern may receive more frequent payments than every 2 weeks.

(d) Final indirect cost rates.

(1) Final annual indirect cost rates and the appropriate bases shall be established in accordance with Subpart 42.7 of the Federal Acquisition Regulation (FAR) in effect for the period covered by the indirect cost rate proposal.

(2)(i) The Contractor shall submit an adequate final indirect cost rate proposal to the Contracting Officer (or cognizant Federal agency official) and auditor within the 6-month period following the expiration of each of its fiscal years. Reasonable extensions, for exceptional circumstances only, may be requested in writing by the Contractor and granted in writing by the Contracting Officer. The Contractor shall support its proposal with adequate supporting data.

(ii) The proposed rates shall be based on the Contractor's actual cost experience for that period. The appropriate Government representative and the Contractor shall establish the final indirect cost rates as promptly as practical after receipt of the Contractor's proposal.

(3) The Contractor and the appropriate Government representative shall execute a written understanding setting forth the final indirect cost rates. The understanding shall specify (i) the agreed-upon final annual indirect cost rates,

(ii) the bases to which the rates apply,

(iii) the periods for which the rates apply,

(iv) any specific indirect cost items treated as direct costs in the settlement, and

(v) the affected contract and/or subcontract, identifying any with advance agreements or special terms and the applicable rates. The understanding shall not change any monetary ceiling, contract obligation, or specific cost allowance or disallowance provided for in this contract. The understanding is incorporated into this contract upon execution.

(4) Failure by the parties to agree on a final annual indirect cost rate shall be a dispute within the meaning of the Disputes clause.

(5) Within 120 days (or longer period if approved in writing by the Contracting Officer) after settlement of the final annual indirect cost rates for all years of a physically complete contract, the Contractor shall submit a completion invoice or voucher to reflect the settled amounts and rates.

(6)(i) If the Contractor fails to submit a completion invoice or voucher within the time specified in paragraph (d)(5) of this clause, the Contracting Officer may-

(A) Determine the amounts due to the Contractor under the contract; and

(B) Record this determination in a unilateral modification to the contract.

(ii) This determination constitutes the final decision of the Contracting Officer in accordance with the Disputes clause.

(e) Billing rates. Until final annual indirect cost rates are established for any period, the Government shall reimburse the Contractor at billing rates established by the Contracting Officer or by an authorized representative (the cognizant auditor), subject to adjustment when the final rates are established. These billing rates-

(1) Shall be the anticipated final rates; and

(2) May be prospectively or retroactively revised by mutual agreement, at either party's request, to prevent substantial overpayment or underpayment.

(f) Quick-closeout procedures. Quick-closeout procedures are applicable when the conditions in FAR 42.708(a) are satisfied.

(g) Audit. At any time or times before final payment, the Contracting Officer may have the Contractor's invoices or vouchers and statements of cost audited. Any payment may be-

(1) Reduced by amounts found by the Contracting Officer not to constitute allowable costs; or

(2) Adjusted for prior overpayments or underpayments.

(h) Final payment.

(1) Upon approval of a completion invoice or voucher submitted by the Contractor in accordance with paragraph (d)(5) of this clause, and upon the Contractor's compliance with all terms of this contract, the Government shall promptly pay any balance of allowable costs and that part of the fee (if any) not previously paid.

(2) The Contractor shall pay to the Government any refunds, rebates, credits, or other amounts (including interest, if any) accruing to or received by the Contractor or any assignee under this contract, to the extent that those amounts are properly allocable to costs for which the Contractor has been reimbursed by the Government. Reasonable expenses incurred by the Contractor for securing refunds, rebates, credits, or other amounts shall be allowable costs if approved by the Contracting Officer. Before final payment under this contract, the Contractor and each assignee whose assignment is in effect at the time of final payment shall execute and deliver-

(i) An assignment to the Government, in form and substance satisfactory to the Contracting Officer, of refunds, rebates, credits, or other amounts (including interest, if any) properly allocable to costs for which the Contractor has been reimbursed by the Government under this contract; and

(ii) A release discharging the Government, its officers, agents, and employees from all liabilities, obligations, and claims arising out of or under this contract, except-

(A) Specified claims stated in exact amounts, or in estimated amounts when the exact amounts are not known;

(B) Claims (including reasonable incidental expenses) based upon liabilities of the Contractor to third parties arising out of the performance of this contract; provided, that the claims are not known to the Contractor on the date of the execution of the release, and that the Contractor gives notice of the claims in writing to the Contracting Officer within 6 years following the release date or notice of final payment date, whichever is earlier; and

(C) Claims for reimbursement of costs, including reasonable incidental expenses, incurred by the Contractor under the patent clauses of this contract, excluding, however, any expenses arising from the Contractor's indemnification of the Government against patent liability.

(End of clause)

52.216-18 ORDERING. (OCT 1995)

(a) Any supplies and services to be furnished under this contract shall be ordered by issuance of delivery orders or task orders by the individuals or activities designated in the Schedule. Such orders may be issued from the beginning of the effective date through the end of the contract.

(b) All delivery orders or task orders are subject to the terms and conditions of this contract. In the event of conflict between a delivery order or task order and this contract, the contract shall control.

(c) If mailed, a delivery order or task order is considered "issued" when the Government deposits the order in the mail. Orders may be issued orally, by facsimile, or by electronic commerce methods only if authorized in the

Schedule.

(End of clause)

52.216-19 ORDER LIMITATIONS. (OCT 1995)

(a) Minimum order. When the Government requires supplies or services covered by this contract in an amount of less than **\$10,000** (insert dollar figure or quantity), the Government is not obligated to purchase, nor is the Contractor obligated to furnish, those supplies or services under the contract.

(b) Maximum order. The Contractor is not obligated to honor:

(1) Any order for a single item in excess of **\$500 Million**.

(2) Any order for a combination of items in excess of **\$1 Billion**; or

(3) A series of orders from the same ordering office within **7** days that together call for quantities exceeding the limitation in subparagraph (1) or (2) above.

(c) If this is a requirements contract (i.e., includes the Requirements clause at subsection 52.216-21 of the Federal Acquisition Regulation (FAR)), the Government is not required to order a part of any one requirement from the Contractor if that requirement exceeds the maximum-order limitations in paragraph (b) above.

(d) Notwithstanding paragraphs (b) and (c) above, the Contractor shall honor any order exceeding the maximum order limitations in paragraph (b), unless that order (or orders) is returned to the ordering office within **7** days after issuance, with written notice stating the Contractor's intent not to ship the item (or items) called for and the reasons. Upon receiving this notice, the Government may acquire the supplies or services from another source.

(End of clause)

52.216-22 INDEFINITE QUANTITY. (OCT 1995)

(a) This is an indefinite-quantity contract for the supplies or services specified, and effective for the period stated, in the Schedule. The quantities of supplies and services specified in the Schedule are estimates only and are not purchased by this contract.

(b) Delivery or performance shall be made only as authorized by orders issued in accordance with the Ordering clause. The Contractor shall furnish to the Government, when and if ordered, the supplies or services specified in the Schedule up to and including the quantity designated in the Schedule as the "maximum". The Government shall order at least the quantity of supplies or services designated in the Schedule as the "minimum".

(c) Except for any limitations on quantities in the Order Limitations clause or in the Schedule, there is no limit on the number of orders that may be issued. The Government may issue orders requiring delivery to multiple destinations or performance at multiple locations.

(d) Any order issued during the effective period of this contract and not completed within that period shall be completed by the Contractor within the time specified in the order. The contract shall govern the Contractor's and Government's rights and obligations with respect to that order to the same extent as if the order were completed

during the contract's effective period; provided, that the Contractor shall not be required to make any deliveries under this contract after **contract termination**.

(End of clause)

52.217-2 CANCELLATION UNDER MULTIYEAR CONTRACTS (OCT 1997)-

(a) Cancellation, as used in this clause, means that the Government is canceling its requirements for all supplies or services in program years subsequent to that in which notice of cancellation is provided. Cancellation shall occur by the date or within the time period specified in the Schedule, unless a later date is agreed to, if the Contracting Officer (1) notifies the Contractor that funds are not available for contract performance for any subsequent program year, or (2) fails to notify the Contractor that funds are available for performance of the succeeding program year requirement. -

(b) Except for cancellation under this clause or termination under the Default clause, any reduction by the Contracting Officer in the requirements of this contract shall be considered a termination under the Termination for Convenience of the Government clause.-

(c) If cancellation under this clause occurs, the Contractor will be paid a cancellation charge not over the cancellation ceiling specified in the Schedule as applicable at the time of cancellation.

(d) The cancellation charge will cover only (1) costs (i) incurred by the Contractor and/or subcontractor, (ii) reasonably necessary for performance of the contract, and (iii) that would have been equitably amortized over the entire multiyear contract period but, because of the cancellation, are not so amortized, and (2) a reasonable profit or fee on the costs.

(e) The cancellation charge shall be computed and the claim made for it as if the claim were being made under the Termination for Convenience of the Government clause of this contract. The Contractor shall submit the claim promptly but no later than 1 year from the date (1) of notification of the nonavailability of funds, or (2) specified in the Schedule by which notification of the availability of additional funds for the next succeeding program year is required to be issued, whichever is earlier, unless extensions in writing are granted by the Contracting Officer.-

(f) The Contractor's claim may include--

(1) Reasonable nonrecurring costs (see Subpart 15.4 of the Federal Acquisition Regulation) which are applicable to and normally would have been amortized in all supplies or services which are multiyear requirements;-

(2) Allocable portions of the costs of facilities acquired or established for the conduct of the work, to the extent that it is impracticable for the Contractor to use the facilities in its commercial work, and if the costs are not charged to the contract through overhead or otherwise depreciated;-

(3) Costs incurred for the assembly, training, and transportation to and from the job site of a specialized work force; and-

(4) Costs not amortized solely because the cancellation had precluded anticipated benefits of Contractor or subcontractor learning.-

(g) The claim shall not include--

(1) Labor, material, or other expenses incurred by the Contractor or subcontractors for performance of the canceled work;-

(2) Any cost already paid to the Contractor;-

(3) Anticipated profit or unearned fee on the canceled work; or-

(4) For service contracts, the remaining useful commercial life of facilities. "Useful commercial life" means the commercial utility of the facilities rather than their physical life with due consideration given to such factors as location of facilities, their specialized nature, and obsolescence. -

(h) This contract may include an Option clause with the period for exercising the option limited to the date in the contract for notification that funds are available for the next succeeding program year. If so, the Contractor agrees not to include in option quantities any costs of a startup or nonrecurring nature that have been fully set forth in the contract. The Contractor further agrees that the option quantities will reflect only those recurring costs and a reasonable profit or fee necessary to furnish the additional option quantities.-

(i) Quantities added to the original contract through the Option clause of this contract shall be included in the quantity canceled for the purpose of computing allowable cancellation charges.

(End of clause)

CLAUSES INCORPORATED BY FULL TEXT

52.217-6 OPTION FOR INCREASED QUANTITY (MAR 1989)

The Government may increase the quantity of supplies called for in the Schedule at the unit price specified. The Contracting Officer may exercise the option by written notice to the Contractor within 24 months of the base period and each option year thereafter. Delivery of the added items shall continue at the same rate as the like items called for under the contract, unless the parties otherwise agree.

(End of clause)

CLAUSES INCORPORATED BY FULL TEXT

52.217-9 OPTION TO EXTEND THE TERM OF THE CONTRACT (MAR 2000)

(a) The Government may extend the term of this contract by written notice to the Contractor **within 24 months from date of contract award and within 12 months from the date the option is exercised**; provided that the Government gives the Contractor a preliminary written notice of its intent to extend at least **60** days before the contract expires. The preliminary notice does not commit the Government to an extension.

(b) If the Government exercises this option, the extended contract shall be considered to include this option clause.

(c) The total duration of this contract, including the exercise of any options under this clause, shall not exceed **60 months**.

(End of clause)

CLAUSES INCORPORATED BY FULL TEXT

52.219-8 UTILIZATION OF SMALL BUSINESS CONCERNS (MAY 2004)

(a) It is the policy of the United States that small business concerns, veteran-owned small business concerns, service-disabled veteran-owned small business concerns, HUBZone small business concerns, small disadvantaged business concerns, and women-owned small business concerns shall have the maximum practicable opportunity to participate in performing contracts let by any Federal agency, including contracts and subcontracts for subsystems, assemblies, components, and related services for major systems. It is further the policy of the United States that its prime contractors establish procedures to ensure the timely payment of amounts due pursuant to the terms of their subcontracts with small business concerns, veteran-owned small business concerns, service-disabled veteran-owned small business concerns, HUBZone small business concerns, small disadvantaged business concerns, and women-owned small business concerns.

(b) The Contractor hereby agrees to carry out this policy in the awarding of subcontracts to the fullest extent consistent with efficient contract performance. The Contractor further agrees to cooperate in any studies or surveys as may be conducted by the United States Small Business Administration or the awarding agency of the United States as may be necessary to determine the extent of the Contractor's compliance with this clause.

Definitions. As used in this contract--

HUBZone small business concern means a small business concern that appears on the List of Qualified HUBZone Small Business Concerns maintained by the Small Business Administration.

Service-disabled veteran-owned small business concern--

(1) Means a small business concern--

(i) Not less than 51 percent of which is owned by one or more service-disabled veterans or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more service-disabled veterans; and

(ii) The management and daily business operations of which are controlled by one or more service-disabled veterans or, in the case of a service-disabled veteran with permanent and severe disability, the spouse or permanent caregiver of such veteran.

(2) Service-disabled veteran means a veteran, as defined in 38 U.S.C. 101(2), with a disability that is service-connected, as defined in 38 U.S.C. 101(16).

Small business concern means a small business as defined pursuant to Section 3 of the Small Business Act and relevant regulations promulgated pursuant thereto.

Small disadvantaged business concern means a small business concern that represents, as part of its offer that--

(1) It has received certification as a small disadvantaged business concern consistent with 13 CFR part 124, subpart B;

(2) No material change in disadvantaged ownership and control has occurred since its certification;

(3) Where the concern is owned by one or more individuals, the net worth of each individual upon whom the certification is based does not exceed \$750,000 after taking into account the applicable exclusions set forth at 13 CFR 124.104(c)(2); and

(4) It is identified, on the date of its representation, as a certified small disadvantaged business in the database maintained by the Small Business Administration (PRO-Net).

Veteran-owned small business concern means a small business concern--

(1) Not less than 51 percent of which is owned by one or more veterans (as defined at 38 U.S.C. 101(2)) or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more veterans; and

(2) The management and daily business operations of which are controlled by one or more veterans.

Women-owned small business concern means a small business concern--

(1) That is at least 51 percent owned by one or more women, or, in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more women; and

(2) Whose management and daily business operations are controlled by one or more women.

(d) Contractors acting in good faith may rely on written representations by their subcontractors regarding their status as a small business concern, a veteran-owned small business concern, a service-disabled veteran-owned small business concern, a HUBZone small business concern, a small disadvantaged business concern, or a women-owned small business concern.

(End of clause)

52.219-9 SMALL BUSINESS SUBCONTRACTING PLAN (JUL 2010)--ALTERNATE II (OCT 2001).

(a) This clause does not apply to small business concerns.

(b) Definitions. As used in this clause--

“Alaska Native Corporation (ANC)” means any Regional Corporation, Village Corporation, Urban Corporation, or Group Corporation organized under the laws of the State of Alaska in accordance with the Alaska Native Claims Settlement Act, as amended (43 U.S.C. 1601, et seq.) and which is considered a minority and economically disadvantaged concern under the criteria at 43 U.S.C. 1626(e)(1). This definition also includes ANC direct and indirect subsidiary corporations, joint ventures, and partnerships that meet the requirements of 43 U.S.C. 1626(e)(2).

“Commercial item” means a product or service that satisfies the definition of commercial item in section 2.101 of the Federal Acquisition Regulation.

“Commercial plan” means a subcontracting plan (including goals) that covers the offeror’s fiscal year and that applies to the entire production of commercial items sold by either the entire company or a portion thereof (e.g., division, plant, or product line).

“Electronic Subcontracting Reporting System (eSRS)” means the Governmentwide, electronic, web-based system for small business subcontracting program reporting. The eSRS is located at <http://www.esrs.gov>.

“Indian tribe” means any Indian tribe, band, group, pueblo, or community, including native villages and native groups (including corporations organized by Kenai, Juneau, Sitka, and Kodiak) as defined in the Alaska Native Claims Settlement Act (43 U.S.C.A. 1601 et seq.), that is recognized by the Federal Government as eligible for

services from the Bureau of Indian Affairs in accordance with 25 U.S.C. 1452(c). This definition also includes Indian-owned economic enterprises that meet the requirements of 25 U.S.C. 1452(e).

“Individual contract plan” means a subcontracting plan that covers the entire contract period (including option periods), applies to a specific contract, and has goals that are based on the offeror’s planned subcontracting in support of the specific contract except that indirect costs incurred for common or joint purposes may be allocated on a prorated basis to the contract.

“Master plan” means a subcontracting plan that contains all the required elements of an individual contract plan, except goals, and may be incorporated into individual contract plans, provided the master plan has been approved.

“Subcontract” means any agreement (other than one involving an employer-employee relationship) entered into by a Federal Government prime Contractor or subcontractor calling for supplies or services required for performance of the contract or subcontract.

(c) Proposals submitted in response to this solicitation shall include a subcontracting plan, that separately addresses subcontracting with small business, veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns. If the offeror is submitting an individual contract plan, the plan must separately address subcontracting with small business, veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns with a separate part for the basic contract and separate parts for each option (if any). The plan shall be included in and made a part of the resultant contract. The subcontracting plan shall be negotiated within the time specified by the Contracting Officer. Failure to submit and negotiate a subcontracting plan shall make the offeror ineligible for award of a contract.

(d) The offeror’s subcontracting plan shall include the following:

(1) Goals, expressed in terms of percentages of total planned subcontracting dollars, for the use of small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns as subcontractors. The offeror shall include all subcontracts that contribute to contract performance, and may include a proportionate share of products and services that are normally allocated as indirect costs. In accordance with 43 U.S.C. 1626:

(i) Subcontracts awarded to an ANC or Indian tribe shall be counted towards the subcontracting goals for small business and small disadvantaged business (SDB) concerns, regardless of the size or Small Business Administration certification status of the ANC or Indian tribe.

(ii) Where one or more subcontractors are in the subcontract tier between the prime contractor and the ANC or Indian tribe, the ANC or Indian tribe shall designate the appropriate contractor(s) to count the subcontract towards its small business and small disadvantaged business subcontracting goals.

(A) In most cases, the appropriate Contractor is the Contractor that awarded the subcontract to the ANC or Indian tribe.

(B) If the ANC or Indian tribe designates more than one Contractor to count the subcontract toward its goals, the ANC or Indian tribe shall designate only a portion of the total subcontract award to each Contractor. The sum of the amounts designated to various Contractors cannot exceed the total value of the subcontract.

(C) The ANC or Indian tribe shall give a copy of the written designation to the Contracting Officer, the prime Contractor, and the subcontractors in between the prime Contractor and the ANC or Indian tribe within 30 days of the date of the subcontract award.

(D) If the Contracting Officer does not receive a copy of the ANC's or the Indian tribe's written designation within 30 days of the subcontract award, the Contractor that awarded the subcontract to the ANC or Indian tribe will be considered the designated Contractor.

(2) A statement of --

- (i) Total dollars planned to be subcontracted for an individual contract plan; or the offeror's total projected sales, expressed in dollars, and the total value of projected subcontracts to support the sales for a commercial plan;
- (ii) Total dollars planned to be subcontracted to small business concerns (including ANC and Indian tribes);
- (iii) Total dollars planned to be subcontracted to veteran-owned small business concerns;
- (iv) Total dollars planned to be subcontracted to service-disabled veteran-owned small business;
- (v) Total dollars planned to be subcontracted to HUBZone small business concerns;
- (vi) Total dollars planned to be subcontracted to small disadvantaged business concerns (including ANCs and Indian tribes); and
- (vii) Total dollars planned to be subcontracted to women-owned small business concerns.

(3) A description of the principal types of supplies and services to be subcontracted, and an identification of the types planned for subcontracting to --

- (i) Small business concerns,
- (ii) Veteran-owned small business concerns;
- (iii) Service-disabled veteran-owned small business concerns;
- (iv) HUBZone small business concerns;
- (v) Small disadvantaged business concerns, and
- (vi) Women-owned small business concerns.

(4) A description of the method used to develop the subcontracting goals in paragraph (d)(1) of this clause.

(5) A description of the method used to identify potential sources for solicitation purposes (e.g., existing company source lists, the Central Contractor Registration database (CCR), veterans service organizations, the National Minority Purchasing Council Vendor Information Service, the Research and Information Division of the Minority Business Development Agency in the Department of Commerce, or small, HUBZone, small disadvantaged, and women-owned small business trade associations). A firm may rely on the information contained in CCR as an accurate representation of a concern's size and ownership characteristics for the purposes of maintaining a small, veteran-owned small, service-disabled veteran-owned small, HUBZone small, small disadvantaged, and women-owned small business source list. Use of CCR as its source list does not relieve a firm of its responsibilities (e.g., outreach, assistance, counseling, or publicizing subcontracting opportunities) in this clause.

(6) A statement as to whether or not the offeror included indirect costs in establishing subcontracting goals, and a description of the method used to determine the proportionate share of indirect costs to be incurred with --

- (i) Small business concerns (including ANC and Indian tribes);
- (ii) Veteran-owned small business concerns;
- (iii) Service-disabled veteran-owned small business concerns;

(iv) HUBZone small business concerns;

(v) Small disadvantaged business concerns (including ANC and Indian tribes); and

(vi) Women-owned small business concerns.

(7) The name of the individual employed by the offeror who will administer the offeror's subcontracting program, and a description of the duties of the individual.

(8) A description of the efforts the offeror will make to assure that small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns have an equitable opportunity to compete for subcontracts.

(9) Assurances that the offeror will include the clause of this contract entitled "Utilization of Small Business Concerns" in all subcontracts that offer further subcontracting opportunities, and that the offeror will require all subcontractors (except small business concerns) that receive subcontracts in excess of \$550,000 (\$1,000,000 for construction of any public facility with further subcontracting possibilities) to adopt a plan similar to the plan that complies with the requirements of this clause.

(10) Assurances that the offeror will --

(i) Cooperate in any studies or surveys as may be required;

(ii) Submit periodic reports so that the Government can determine the extent of compliance by the offeror with the subcontracting plan;

(iii) Submit the Individual Subcontract Report (ISR) and/or the Summary Subcontract Report (SSR), in accordance with paragraph (l) of this clause using the Electronic Subcontracting Reporting System (eSRS) at <http://www.esrs.gov>. The reports shall provide information on subcontract awards to small business concerns (including ANCs and Indian tribes that are not small businesses), veteran-owned small business concerns, service-disabled veteran-owned small business concerns, HUBZone small business concerns, small disadvantaged business concerns (including ANCs and Indian tribes that have not been certified by the Small Business Administration as small disadvantaged businesses), women-owned small business concerns, and Historically Black Colleges and Universities and Minority Institutions. Reporting shall be in accordance with this clause, or as provided in agency regulations;

(iv) Ensure that its subcontractors with subcontracting plans agree to submit the ISR and/or the SSR using eSRS;

(v) Provide its prime contract number, its DUNS number, and the e-mail address of the offeror's official responsible for acknowledging receipt of or rejecting the ISRs, to all first-tier subcontractors with subcontracting plans so they can enter this information into the eSRS when submitting their ISRs; and

(vi) Require that each subcontractor with a subcontracting plan provide the prime contract number, its own DUNS number, and the e-mail address of the subcontractor's official responsible for acknowledging receipt of or rejecting the ISRs, to its subcontractors with subcontracting plans.

(11) A description of the types of records that will be maintained concerning procedures that have been adopted to comply with the requirements and goals in the plan, including establishing source lists; and a description of the offeror's efforts to locate small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns and award subcontracts to them. The records shall include at least the following (on a plant-wide or company-wide basis, unless otherwise indicated):

(i) Source lists (e.g., CCR), guides, and other data that identify small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns.

(ii) Organizations contacted in an attempt to locate sources that are small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, or women-owned small business concerns.

(iii) Records on each subcontract solicitation resulting in an award of more than \$100,000, indicating --

(A) Whether small business concerns were solicited and if not, why not;

(B) Whether veteran-owned small business concerns were solicited and, if not, why not;

(C) Whether service-disabled veteran-owned small business concerns were solicited and, if not, why not;

(D) Whether HUBZone small business concerns were solicited and, if not, why not;

(E) Whether small disadvantaged business concerns were solicited and if not, why not;

(F) Whether women-owned small business concerns were solicited and if not, why not; and

(G) If applicable, the reason award was not made to a small business concern.

(iv) Records of any outreach efforts to contact --

(A) Trade associations;

(B) Business development organizations;

(C) Conferences and trade fairs to locate small, HUBZone small, small disadvantaged, and women-owned small business sources; and

(D) Veterans service organizations.

(v) Records of internal guidance and encouragement provided to buyers through --

(A) Workshops, seminars, training, etc., and

(B) Monitoring performance to evaluate compliance with the program's requirements.

(vi) On a contract-by-contract basis, records to support award data submitted by the offeror to the Government, including the name, address, and business size of each subcontractor. Contractors having commercial plans need not comply with this requirement.

(e) In order to effectively implement this plan to the extent consistent with efficient contract performance, the Contractor shall perform the following functions:

(1) Assist small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns by arranging solicitations, time for the preparation of bids, quantities, specifications, and delivery schedules so as to facilitate the participation by such concerns. Where the Contractor's lists of potential small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned

small business subcontractors are excessively long, reasonable effort shall be made to give all such small business concerns an opportunity to compete over a period of time.

(2) Provide adequate and timely consideration of the potentialities of small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns in all “make-or-buy” decisions.

(3) Counsel and discuss subcontracting opportunities with representatives of small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business firms.

(4) Confirm that a subcontractor representing itself as a HUBZone small business concern is identified as a certified HUBZone small business concern by accessing the Central Contractor Registration (CCR) database or by contacting SBA.

(5) Provide notice to subcontractors concerning penalties and remedies for misrepresentations of business status as small, veteran-owned small business, HUBZone small, small disadvantaged or women-owned small business for the purpose of obtaining a subcontract that is to be included as part or all of a goal contained in the Contractor’s subcontracting plan.

(f) A master plan on a plant or division-wide basis that contains all the elements required by paragraph (d) of this clause, except goals, may be incorporated by reference as a part of the subcontracting plan required of the offeror by this clause; provided --

(1) The master plan has been approved;

(2) The offeror ensures that the master plan is updated as necessary and provides copies of the approved master plan, including evidence of its approval, to the Contracting Officer; and

(3) Goals and any deviations from the master plan deemed necessary by the Contracting Officer to satisfy the requirements of this contract are set forth in the individual subcontracting plan.

(g) A commercial plan is the preferred type of subcontracting plan for contractors furnishing commercial items. The commercial plan shall relate to the offeror's planned subcontracting generally, for both commercial and Government business, rather than solely to the Government contract. Once the Contractor's commercial plan has been approved, the Government will not require another subcontracting plan from the same Contractor while the plan remains in effect, as long as the product or service being provided by the Contractor continues to meet the definition of a commercial item. A Contractor with a commercial plan shall comply with the reporting requirements stated in paragraph (d)(10) of this clause by submitting one SSR in eSRS for all contracts covered by its commercial plan. This report shall be acknowledged or rejected in eSRS by the Contracting Officer who approved the plan. This report shall be submitted within 30 days after the end of the Government's fiscal year.

(h) Prior compliance of the offeror with other such subcontracting plans under previous contracts will be considered by the Contracting Officer in determining the responsibility of the offeror for award of the contract.

(i) A contract may have no more than one plan. When a modification meets the criteria in 19.702 for a plan, or an option is exercised, the goals associated with the modification or option shall be added to those in the existing subcontract plan.

(j) Subcontracting plans are not required from subcontractors when the prime contract contains the clause at 52.212-5, Contract Terms and Conditions Required to Implement Statutes or Executive Orders--Commercial Items, or when the subcontractor provides a commercial item subject to the clause at 52.244-6, Subcontracts for Commercial Items, under a prime contract.

(k) The failure of the Contractor or subcontractor to comply in good faith with --

(1) The clause of this contract entitled "Utilization Of Small Business Concerns;" or

(2) An approved plan required by this clause, shall be a material breach of the contract.

(l) The Contractor shall submit ISRs and SSRs using the web-based eSRS at <http://www.esrs.gov>. Purchases from a corporation, company, or subdivision that is an affiliate of the prime Contractor or subcontractor are not included in these reports. Subcontract award data reported by prime Contractors and subcontractors shall be limited to awards made to their immediate next-tier subcontractors. Credit cannot be taken for awards made to lower tier subcontractors, unless the Contractor or subcontractor has been designated to receive a small business or small disadvantaged business credit from an ANC or Indian tribe. subcontracts involving performance in the United States or its outlying areas should be included in these reports with the exception of subcontracts under a contract awarded by the State Department or any other agency that has statutory or regulatory authority to require subcontracting plans for subcontracts performed outside the United States and its outlying areas.

(1) ISR. This report is not required for commercial plans. The report is required for each contract containing an individual subcontract plan.

(i) The report shall be submitted semi-annually during contract performance for the periods ending March 31 and September 30. A report is also required for each contract within 30 days of contract completion. Reports are due 30 days after the close of each reporting period, unless otherwise directed by the Contracting Officer. Reports are required when due, regardless of whether there has been any subcontracting activity since the inception of the contract or the previous reporting period.

(ii) When a subcontracting plan contains separate goals for the basic contract and each option, as prescribed by FAR 19.704(c), the dollar goal inserted on this report shall be the sum of the base period through the current option; for example, for a report submitted after the second option is exercised, the dollar goal would be the sum of the goals for the basic contract, the first option, and the second option.

(iii) The authority to acknowledge receipt or reject the ISR resides--

(A) In the case of the prime Contractor, with the Contracting Officer; and

(B) In the case of a subcontract with a subcontracting plan, with the entity that awarded the subcontract.

(2) SSR.

(i) Reports submitted under individual contract plans--

(A) This report encompasses all subcontracting under prime contracts and subcontracts with the awarding agency, regardless of the dollar value of the subcontracts.

(B) The report may be submitted on a corporate, company or subdivision (e.g. plant or division operating as a separate profit center) basis, unless otherwise directed by the agency.

(C) If a prime Contractor and/or subcontractor is performing work for more than one executive agency, a separate report shall be submitted to each executive agency covering only that agency's contracts, provided at least one of that agency's contracts is over \$550,000 (over \$1,000,000 for construction of a public facility) and contains a subcontracting plan. For DoD, a consolidated report shall be submitted for all contracts awarded by military departments/agencies and/or subcontracts awarded by DoD prime Contractors. However, for construction and related maintenance and repair, a separate report shall be submitted for each DoD component.

(D) For DoD and NASA, the report shall be submitted semi-annually for the six months ending March 31 and the twelve months ending September 30. For civilian agencies, except NASA, it shall be submitted annually for the twelve month period ending September 30. Reports are due 30 days after the close of each reporting period.

(E) Subcontract awards that are related to work for more than one executive agency shall be appropriately allocated.

(F) The authority to acknowledge or reject SSRs in eSRS, including SSRs submitted by subcontractors with subcontracting plans, resides with the Government agency awarding the prime contracts unless stated otherwise in the contract.

(ii) Reports submitted under a commercial plan--

(A) The report shall include all subcontract awards under the commercial plan in effect during the Government's fiscal year.

(B) The report shall be submitted annually, within thirty days after the end of the Government's fiscal year.

(C) If a Contractor has a commercial plan and is performing work for more than one executive agency, the Contractor shall specify the percentage of dollars attributable to each agency from which contracts for commercial items were received.

(D) The authority to acknowledge or reject SSRs for commercial plans resides with the Contracting Officer who approved the commercial plan.

(iii) All reports submitted at the close of each fiscal year (both individual and commercial plans) shall include a Year-End Supplementary Report for Small Disadvantaged Businesses. The report shall include subcontract awards, in whole dollars, to small disadvantaged business concerns by North American Industry Classification System (NAICS) Industry Subsector. If the data are not available when the year-end SSR is submitted, the prime Contractor and/or subcontractor shall submit the Year-End Supplementary Report for Small Disadvantaged Businesses within 90 days of submitting the year-end SSR. For a commercial plan, the Contractor may obtain from each of its subcontractors a predominant NAICS Industry Subsector and report all awards to that subcontractor under its predominant NAICS Industry Subsector.

(End of clause)

CLAUSES INCORPORATED BY FULL TEXT

52.219-16 LIQUIDATED DAMAGES-SUBCONTRACTING PLAN (JAN 1999)

(a) Failure to make a good faith effort to comply with the subcontracting plan, as used in this clause, means a willful or intentional failure to perform in accordance with the requirements of the subcontracting plan approved under the clause in this contract entitled "Small Business Subcontracting Plan," or willful or intentional action to frustrate the plan.

(b) Performance shall be measured by applying the percentage goals to the total actual subcontracting dollars or, if a commercial plan is involved, to the pro rata share of actual subcontracting dollars attributable to Government contracts covered by the commercial plan. If, at contract completion or, in the case of a commercial plan, at the close of the fiscal year for which the plan is applicable, the Contractor has failed to meet its subcontracting goals and the Contracting Officer decides in accordance with paragraph (c) of this clause that the Contractor failed to make a good faith effort to comply with its subcontracting plan, established in accordance with the clause in this contract entitled "Small Business Subcontracting Plan," the Contractor shall pay the Government liquidated damages in an amount

stated. The amount of probable damages attributable to the Contractor's failure to comply shall be an amount equal to the actual dollar amount by which the Contractor failed to achieve each subcontract goal.

(c) Before the Contracting Officer makes a final decision that the Contractor has failed to make such good faith effort, the Contracting Officer shall give the Contractor written notice specifying the failure and permitting the Contractor to demonstrate what good faith efforts have been made and to discuss the matter. Failure to respond to the notice may be taken as an admission that no valid explanation exists. If, after consideration of all the pertinent data, the Contracting Officer finds that the Contractor failed to make a good faith effort to comply with the subcontracting plan, the Contracting Officer shall issue a final decision to that effect and require that the Contractor pay the Government liquidated damages as provided in paragraph (b) of this clause.

(d) With respect to commercial plans, the Contracting Officer who approved the plan will perform the functions of the Contracting Officer under this clause on behalf of all agencies with contracts covered by the commercial plan.

(e) The Contractor shall have the right of appeal, under the clause in this contract entitled Disputes, from any final decision of the Contracting Officer.

(f) Liquidated damages shall be in addition to any other remedies that the Government may have.

(End of clause)

52.222-1 NOTICE TO THE GOVERNMENT OF LABOR DISPUTES (FEB 1997)

If the Contractor has knowledge that any actual or potential labor dispute is delaying or threatens to delay the timely performance of this contract, the Contractor shall immediately give notice, including all relevant information, to the Contracting Officer.

(End of clause)

52.222-21 PROHIBITION OF SEGREGATED FACILITIES (FEB 1999)

(a) Segregated facilities, as used in this clause, means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees, that are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, sex, or national origin because of written or oral policies or employee custom. The term does not include separate or single-user rest rooms or necessary dressing or sleeping areas provided to assure privacy between the sexes.

(b) The Contractor agrees that it does not and will not maintain or provide for its employees any segregated facilities at any of its establishments, and that it does not and will not permit its employees to perform their services at any location under its control where segregated facilities are maintained. The Contractor agrees that a breach of this clause is a violation of the Equal Opportunity clause in this contract.

(c) The Contractor shall include this clause in every subcontract and purchase order that is subject to the Equal Opportunity clause of this contract.

(End of clause)

52.222-24 PREAWARD ON-SITE EQUAL OPPORTUNITY COMPLIANCE EVALUATION (FEB 1999)

If a contract in the amount of \$10 million or more will result from this solicitation, the prospective Contractor and its known first-tier subcontractors with anticipated subcontracts of \$10 million or more shall be subject to a preaward compliance evaluation by the Office of Federal Contract Compliance Programs (OFCCP), unless, within the preceding 24 months, OFCCP has conducted an evaluation and found the prospective Contractor and subcontractors to be in compliance with Executive Order 11246.

(End of provision)

52.222-26 EQUAL OPPORTUNITY (MAR 2007)

(a) Definition. United States, as used in this clause, means the 50 States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, the U.S. Virgin Islands, and Wake Island.

(b)(1) If, during any 12-month period (including the 12 months preceding the award of this contract), the Contractor has been or is awarded nonexempt Federal contracts and/or subcontracts that have an aggregate value in excess of \$10,000, the Contractor shall comply with this clause, except for work performed outside the United States by employees who were not recruited within the United States. Upon request, the Contractor shall provide information necessary to determine the applicability of this clause.

(2) If the Contractor is a religious corporation, association, educational institution, or society, the requirements of this clause do not apply with respect to the employment of individuals of a particular religion to perform work connected with the carrying on of the Contractor's activities (41 CFR 60-1.5).

(c) (1) The Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. However, it shall not be a violation of this clause for the Contractor to extend a publicly announced preference in employment to Indians living on or near an Indian reservation, in connection with employment opportunities on or near an Indian reservation, as permitted by 41 CFR 60-1.5.

(2) The Contractor shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. This shall include, but not be limited to, (i) employment, (ii) upgrading, (iii) demotion, (iv) transfer, (v) recruitment or recruitment advertising, (vi) layoff or termination, (vii) rates of pay or other forms of compensation, and (viii) selection for training, including apprenticeship.

(3) The Contractor shall post in conspicuous places available to employees and applicants for employment the notices to be provided by the Contracting Officer that explain this clause.

(4) The Contractor shall, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

(5) The Contractor shall send, to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, the notice to be provided by the Contracting Officer advising the labor union or workers' representative of the Contractor's commitments under this clause, and post copies of the notice in conspicuous places available to employees and applicants for employment.

(6) The Contractor shall comply with Executive Order 11246, as amended, and the rules, regulations, and orders of the Secretary of Labor.

(7) The Contractor shall furnish to the contracting agency all information required by Executive Order 11246, as amended, and by the rules, regulations, and orders of the Secretary of Labor. The Contractor shall also file Standard Form 100 (EEO-1), or any successor form, as prescribed in 41 CFR part 60-1. Unless the Contractor has filed within the 12 months preceding the date of contract award, the Contractor shall, within 30 days after contract award, apply to either the regional Office of Federal Contract Compliance Programs (OFCCP) or the local office of the Equal Employment Opportunity Commission for the necessary forms.

(8) The Contractor shall permit access to its premises, during normal business hours, by the contracting agency or the OFCCP for the purpose of conducting on-site compliance evaluations and complaint investigations. The Contractor shall permit the Government to inspect and copy any books, accounts, records (including computerized records), and other material that may be relevant to the matter under investigation and pertinent to compliance with Executive Order 11246, as amended, and rules and regulations that implement the Executive Order.

(9) If the OFCCP determines that the Contractor is not in compliance with this clause or any rule, regulation, or order of the Secretary of Labor, this contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts, under the procedures authorized in Executive Order 11246, as amended. In addition, sanctions may be imposed and remedies invoked against the Contractor as provided in Executive Order 11246, as amended; in the rules, regulations, and orders of the Secretary of Labor; or as otherwise provided by law.

(10) The Contractor shall include the terms and conditions of this clause in every subcontract or purchase order that is not exempted by the rules, regulations, or orders of the Secretary of Labor issued under Executive Order 11246, as amended, so that these terms and conditions will be binding upon each subcontractor or vendor.

(11) The Contractor shall take such action with respect to any subcontract or purchase order as the contracting officer may direct as a means of enforcing these terms and conditions, including sanctions for noncompliance; provided, that if the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of any direction, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.

(c) Notwithstanding any other clause in this contract, disputes relative to this clause will be governed by the procedures in 41 CFR 60-1.1.

(End of clause)

52.222-27 AFFIRMATIVE ACTION COMPLIANCE REQUIREMENTS FOR CONSTRUCTION (FEB 1999)

(a) Definitions. "Covered area," as used in this clause, means the geographical area described in the solicitation for this contract.

"Deputy Assistant Secretary," as used in this clause, means Deputy Assistant Secretary for Federal Contract Compliance, U.S. Department of Labor, or a designee.

"Employer's identification number," as used in this clause, means the Federal Social Security number used on the employer's quarterly federal tax return, U.S. Treasury Department Form 941.

"Minority," as used in this clause, means--

(1) American Indian or Alaskan Native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).

(2) Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands);

(3) Black (all persons having origins in any of the black African racial groups not of Hispanic origin); and

(4) Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race).

(b) If the Contractor, or a subcontractor at any tier, subcontracts a portion of the work involving any construction trade, each such subcontract in excess of \$10,000 shall include this clause and the Notice containing the goals for minority and female participation stated in the solicitation for this contract.

(c) If the Contractor is participating in a Hometown Plan (41 CFR 60-4) approved by the U.S. Department of Labor in a covered area, either individually or through an association, its affirmative action obligations on all work in the plan area (including goals) shall comply with the plan for those trades that have unions participating in the plan. Contractors must be able to demonstrate participation in, and compliance with, the provisions of the plan. Each Contractor or subcontractor participating in an approved plan is also required to comply with its obligations under the Equal Opportunity clause, and to make a good faith effort to achieve each goal under the plan in each trade in which it has employees. The overall good-faith performance by other Contractors or subcontractors toward a goal in an approved plan does not excuse any Contractor's or subcontractor's failure to make good-faith efforts to achieve the plan's goals.

(d) The Contractor shall implement the affirmative action procedures in subparagraphs (g)(1) through (16) of this clause. The goals stated in the solicitation for this contract are expressed as percentages of the total hours of employment and training of minority and female utilization that the Contractor should reasonably be able to achieve in each construction trade in which it has employees in the covered area. If the Contractor performs construction work in a geographical area located outside of the covered area, it shall apply the goals established for the geographical area where that work is actually performed. The Contractor is expected to make substantially uniform progress toward its goals in each craft.

(e) Neither the terms and conditions of any collective bargaining agreement, nor the failure by a union with which the Contractor has a collective bargaining agreement, to refer minorities or women shall excuse the Contractor's obligations under this clause, Executive Order 11246, as amended, or the regulations thereunder.

(f) In order for the nonworking training hours of apprentices and trainees to be counted in meeting the goals, apprentices and trainees must be employed by the Contractor during the training period, and the Contractor must have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees must be trained pursuant to training programs approved by the U.S. Department of Labor.

(g) The Contractor shall take affirmative action to ensure equal employment opportunity. The evaluation of the Contractor's compliance with this clause shall be based upon its effort to achieve maximum results from its actions. The Contractor shall document these efforts fully and implement affirmative action steps at least as extensive as the following:

(1) Ensure a working environment free of harassment, intimidation, and coercion at all sites and in all facilities where the Contractor's employees are assigned to work. The Contractor, if possible, will assign two or more women to each construction project. The Contractor shall ensure that foremen, superintendents, and other onsite supervisory personnel are aware of and carry out the Contractor's obligation to maintain such a working environment, with specific attention to minority or female individuals working at these sites or facilities.

(2) Establish and maintain a current list of sources for minority and female recruitment. Provide written notification to minority and female recruitment sources and community organizations when the Contractor or its unions have

employment opportunities available, and maintain a record of the organizations' responses.

(3) Establish and maintain a current file of the names, addresses, and telephone numbers of each minority and female off-the-street applicant, referrals of minorities or females from unions, recruitment sources, or community organizations, and the action taken with respect to each individual. If an individual was sent to the union hiring hall for referral and not referred back to the Contractor by the union or, if referred back, not employed by the Contractor, this shall be documented in the file, along with whatever additional actions the Contractor may have taken.

(4) Immediately notify the Deputy Assistant Secretary when the union or unions with which the Contractor has a collective bargaining agreement has not referred back to the Contractor a minority or woman sent by the Contractor, or when the Contractor has other information that the union referral process has impeded the Contractor's efforts to meet its obligations.

(5) Develop on-the-job training opportunities and/or participate in training programs for the area that expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the Contractor's employment needs, especially those programs funded or approved by the Department of Labor. The Contractor shall provide notice of these programs to the sources compiled under subparagraph (g)(2) of this clause.

(6) Disseminate the Contractor's equal employment policy by--

(i) Providing notice of the policy to unions and to training, recruitment, and outreach programs, and requesting their cooperation in assisting the Contractor in meeting its contract obligations;

(ii) Including the policy in any policy manual and in collective bargaining agreements;

(iii) Publicizing the policy in the company newspaper, annual report, etc.;

(iv) Reviewing the policy with all management personnel and with all minority and female employees at least once a year; and

(v) Posting the policy on bulletin boards accessible to employees at each location where construction work is performed.

(7) Review, at least annually, the Contractor's equal employment policy and affirmative action obligations with all employees having responsibility for hiring, assignment, layoff, termination, or other employment decisions. Conduct review of this policy with all on-site supervisory personnel before initiating construction work at a job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.

(8) Disseminate the Contractor's equal employment policy externally by including it in any advertising in the news media, specifically including minority and female news media. Provide written notification to, and discuss this policy with, other Contractors and subcontractors with which the Contractor does or anticipates doing business.

(9) Direct recruitment efforts, both oral and written, to minority, female, and community organizations, to schools with minority and female students, and to minority and female recruitment and training organizations serving the Contractor's recruitment area and employment needs. Not later than 1 month before the date for acceptance of applications for apprenticeship or training by any recruitment source, send written notification to organizations such as the above, describing the openings, screening procedures, and tests to be used in the selection process.

(10) Encourage present minority and female employees to recruit minority persons and women. Where reasonable, provide after-school, summer, and vacation employment to minority and female youth both on the site and in other areas of the Contractor's workforce.

(11) Validate all tests and other selection requirements where required under 41 CFR 60-3.

(12) Conduct, at least annually, an inventory and evaluation at least of all minority and female personnel for promotional opportunities. Encourage these employees to seek or to prepare for, through appropriate training, etc., opportunities for promotion.

(13) Ensure that seniority practices, job classifications, work assignments, and other personnel practices do not have a discriminatory effect by continually monitoring all personnel and employment-related activities to ensure that the Contractor's obligations under this contract are being carried out.

(14) Ensure that all facilities and company activities are nonsegregated except that separate or single-user rest rooms and necessary dressing or sleeping areas shall be provided to assure privacy between the sexes.

(15) Maintain a record of solicitations for subcontracts for minority and female construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations.

(16) Conduct a review, at least annually, of all supervisors' adherence to and performance under the Contractor's equal employment policy and affirmative action obligations.

(h) The Contractor is encouraged to participate in voluntary associations that may assist in fulfilling one or more of the affirmative action obligations contained in subparagraphs (g)(1) through (16) of this clause. The efforts of a contractor association, joint contractor-union, contractor-community, or similar group of which the contractor is a member and participant may be asserted as fulfilling one or more of its obligations under subparagraphs (g)(1) through (16) of this clause, provided the Contractor--

(1) Actively participates in the group;

(2) Makes every effort to ensure that the group has a positive impact on the employment of minorities and women in the industry;

(3) Ensures that concrete benefits of the program are reflected in the Contractor's minority and female workforce participation;

(4) Makes a good-faith effort to meet its individual goals and timetables; and

(5) Can provide access to documentation that demonstrates the effectiveness of actions taken on behalf of the Contractor. The obligation to comply is the Contractor's, and failure of such a group to fulfill an obligation shall not be a defense for the Contractor's noncompliance.

(i) A single goal for minorities and a separate single goal for women shall be established. The Contractor is required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and nonminority. Consequently, the Contractor may be in violation of Executive Order 11246, as amended, if a particular group is employed in a substantially disparate manner.

(j) The Contractor shall not use goals or affirmative action standards to discriminate against any person because of race, color, religion, sex, or national origin.

(k) The Contractor shall not enter into any subcontract with any person or firm debarred from Government contracts under Executive Order 11246, as amended.

(l) The Contractor shall carry out such sanctions and penalties for violation of this clause and of the Equal Opportunity clause, including suspension, termination, and cancellation of existing subcontracts, as may be imposed or ordered under Executive Order 11246, as amended, and its implementing regulations, by the OFCCP. Any failure

to carry out these sanctions and penalties as ordered shall be a violation of this clause and Executive Order 11246, as amended.

(m) The Contractor in fulfilling its obligations under this clause shall implement affirmative action procedures at least as extensive as those prescribed in paragraph (g) of this clause, so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the Contractor fails to comply with the requirements of Executive Order 11246, as amended, the implementing regulations, or this clause, the Deputy Assistant Secretary shall take action as prescribed in 41 CFR 60-4.8.

(n) The Contractor shall designate a responsible official to--

(1) Monitor all employment-related activity to ensure that the Contractor's equal employment policy is being carried out;

(2) Submit reports as may be required by the Government; and

(3) Keep records that shall at least include for each employee the name, address, telephone number, construction trade, union affiliation (if any), employee identification number, social security number, race, sex, status (e.g., mechanic, apprentice, trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and locations at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, separate records are not required to be maintained.

Nothing contained herein shall be construed as a limitation upon the application of other laws that establish different standards of compliance or upon the requirements for the hiring of local or other area residents (e.g., those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).

(End of clause)

52.222-29 NOTIFICATION OF VISA DENIAL (JUN 2003)

It is a violation of Executive Order 11246 for a Contractor to refuse to employ any applicant or not to assign any person hired in the United States, Puerto Rico, the Northern Mariana Islands, American Samoa, Guam, the U.S. Virgin Islands, or Wake Island, on the basis that the individual's race, color, religion, sex, or national origin is not compatible with the policies of the country where or for whom the work will be performed (41 CFR 60-1.10). The Contractor shall notify the U.S. Department of State, Assistant Secretary, Bureau of Political-Military Affairs (PM), 2201 C Street NW., Room 6212, Washington, DC 20520, and the U.S. Department of Labor, Deputy Assistant Secretary for Federal Contract Compliance, when it has knowledge of any employee or potential employee being denied an entry visa to a country where this contract will be performed, and it believes the denial is attributable to the race, color, religion, sex, or national origin of the employee or potential employee.

(End of clause)

52.222-35 EQUAL OPPORTUNITY FOR SPECIAL DISABLED VETERANS, VETERANS OF THE VIETNAM ERA AND OTHER ELIGIBLE VETERANS (SEP 2006) ALTERNATE I (DEC 2001)

Notice: The following term(s) of this clause are waived for this contract: **NONE**

(a) Definitions. As used in this clause--

All employment openings means all positions except executive and top management, those positions that will be filled from within the Contractor's organization, and positions lasting 3 days or less. This term includes full-time employment, temporary employment of more than 3 days duration, and part-time employment.

Executive and top management means any employee--

(1) Whose primary duty consists of the management of the enterprise in which the individual is employed or of a customarily recognized department or subdivision thereof;

(2) Who customarily and regularly directs the work of two or more other employees;

(3) Who has the authority to hire or fire other employees or whose suggestions and recommendations as to the hiring or firing and as to the advancement and promotion or any other change of status of other employees will be given particular weight;

(4) Who customarily and regularly exercises discretionary powers; and

(5) Who does not devote more than 20 percent or, in the case of an employee of a retail or service establishment, who does not devote more than 40 percent of total hours of work in the work week to activities that are not directly and closely related to the performance of the work described in paragraphs (1) through (4) of this definition. This paragraph (5) does not apply in the case of an employee who is in sole charge of an establishment or a physically separated branch establishment, or who owns at least a 20 percent interest in the enterprise in which the individual is employed.

Other eligible veteran means any other veteran who served on active duty during a war or in a campaign or expedition for which a campaign badge has been authorized.

Positions that will be filled from within the Contractor's organization means employment openings for which the Contractor will give no consideration to persons outside the Contractor's organization (including any affiliates, subsidiaries, and parent companies) and includes any openings the Contractor proposes to fill from regularly established "recall" lists. The exception does not apply to a particular opening once an employer decides to consider applicants outside of its organization.

Qualified special disabled veteran means a special disabled veteran who satisfies the requisite skill, experience, education, and other job-related requirements of the employment position such veteran holds or desires, and who, with or without reasonable accommodation, can perform the essential functions of such position.

Special disabled veteran means--

(1) A veteran who is entitled to compensation (or who but for the receipt of military retired pay would be entitled to compensation) under laws administered by the Department of Veterans Affairs for a disability--

(i) Rated at 30 percent or more; or

(ii) Rated at 10 or 20 percent in the case of a veteran who has been determined under 38 U.S.C. 3106 to have a serious employment handicap (i.e., a significant impairment of the veteran's ability to prepare for, obtain, or retain employment consistent with the veteran's abilities, aptitudes, and interests); or

(2) A person who was discharged or released from active duty because of a service-connected disability.

Veteran of the Vietnam era means a person who--

(1) Served on active duty for a period of more than 180 days and was discharged or released from active duty with other than a dishonorable discharge, if any part of such active duty occurred--

(i) In the Republic of Vietnam between February 28, 1961, and May 7, 1975; or

(ii) Between August 5, 1964, and May 7, 1975, in all other cases; or

(2) Was discharged or released from active duty for a service-connected disability if any part of the active duty was performed--

(i) In the Republic of Vietnam between February 28, 1961, and May 7, 1975; or

(ii) Between August 5, 1964, and May 7, 1975, in all other cases.

(b) General. (1) The Contractor shall not discriminate against the individual because the individual is a special disabled veteran, a veteran of the Vietnam era, or other eligible veteran, regarding any position for which the employee or applicant for employment is qualified. The Contractor shall take affirmative action to employ, advance in employment, and otherwise treat qualified special disabled veterans, veterans of the Vietnam era, and other eligible veterans without discrimination based upon their disability or veterans' status in all employment practices such as--

(i) Recruitment, advertising, and job application procedures;

(ii) Hiring, upgrading, promotion, award of tenure, demotion, transfer, layoff, termination, right of return from layoff and rehiring;

(iii) Rate of pay or any other form of compensation and changes in compensation;

(iv) Job assignments, job classifications, organizational structures, position descriptions, lines of progression, and seniority lists;

(v) Leaves of absence, sick leave, or any other leave;

(vi) Fringe benefits available by virtue of employment, whether or not administered by the Contractor;

(vii) Selection and financial support for training, including apprenticeship, and on-the-job training under 38 U.S.C. 3687, professional meetings, conferences, and other related activities, and selection for leaves of absence to pursue training;

(viii) Activities sponsored by the Contractor including social or recreational programs; and

(ix) Any other term, condition, or privilege of employment.

(2) The Contractor shall comply with the rules, regulations, and relevant orders of the Secretary of Labor issued under the Vietnam Era Veterans' Readjustment Assistance Act of 1972 (the Act), as amended (38 U.S.C. 4211 and 4212).

(c) Listing openings. (1) The Contractor shall immediately list all employment openings that exist at the time of the execution of this contract and those which occur during the performance of this contract, including those not generated by this contract, and including those occurring at an establishment of the Contractor other than the one where the contract is being performed, but excluding those of independently operated corporate affiliates, at an appropriate local public employment service office of the State wherein the opening occurs. Listing employment openings with the U.S. Department of Labor's America's Job Bank shall satisfy the requirement to list jobs with the local employment service office.

(2) The Contractor shall make the listing of employment openings with the local employment service office at least concurrently with using any other recruitment source or effort and shall involve the normal obligations of placing a bona fide job order, including accepting referrals of veterans and nonveterans. This listing of employment openings does not require hiring any particular job applicant or hiring from any particular group of job applicants and is not intended to relieve the Contractor from any requirements of Executive orders or regulations concerning nondiscrimination in employment.

(3) Whenever the Contractor becomes contractually bound to the listing terms of this clause, it shall advise the State public employment agency in each State where it has establishments of the name and location of each hiring location in the State. As long as the Contractor is contractually bound to these terms and has so advised the State agency, it need not advise the State agency of subsequent contracts. The Contractor may advise the State agency when it is no longer bound by this contract clause.

(d) Applicability. This clause does not apply to the listing of employment openings that occur and are filled outside the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, the Virgin Islands of the United States, and Wake Island.

(e) Postings. (1) The Contractor shall post employment notices in conspicuous places that are available to employees and applicants for employment.

(2) The employment notices shall--

(i) State the rights of applicants and employees as well as the Contractor's obligation under the law to take affirmative action to employ and advance in employment qualified employees and applicants who are special disabled veterans, veterans of the Vietnam era, and other eligible veterans; and

(ii) Be in a form prescribed by the Deputy Assistant Secretary for Federal Contract Compliance Programs, Department of Labor (Deputy Assistant Secretary of Labor), and provided by or through the Contracting Officer.

(3) The Contractor shall ensure that applicants or employees who are special disabled veterans are informed of the contents of the notice (e.g., the Contractor may have the notice read to a visually disabled veteran, or may lower the posted notice so that it can be read by a person in a wheelchair).

(4) The Contractor shall notify each labor union or representative of workers with which it has a collective bargaining agreement, or other contract understanding, that the Contractor is bound by the terms of the Act and is committed to take affirmative action to employ, and advance in employment, qualified special disabled veterans, veterans of the Vietnam era, and other eligible veterans.

(f) Noncompliance. If the Contractor does not comply with the requirements of this clause, the Government may take appropriate actions under the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.

(g) Subcontracts. The Contractor shall insert the terms of this clause in all subcontracts or purchase orders of \$100,000 or more unless exempted by rules, regulations, or orders of the Secretary of Labor. The Contractor shall act as specified by the Deputy Assistant Secretary of Labor to enforce the terms, including action for noncompliance.

(End of clause)

(a) General. (1) Regarding any position for which the employee or applicant for employment is qualified, the Contractor shall not discriminate against any employee or applicant because of physical or mental disability. The Contractor agrees to take affirmative action to employ, advance in employment, and otherwise treat qualified individuals with disabilities without discrimination based upon their physical or mental disability in all employment practices such as--

(i) Recruitment, advertising, and job application procedures;

(ii) Hiring, upgrading, promotion, award of tenure, demotion, transfer, layoff, termination, right of return from layoff, and rehiring;

(iii) Rates of pay or any other form of compensation and changes in compensation;

(iv) Job assignments, job classifications, organizational structures, position descriptions, lines of progression, and seniority lists;

(v) Leaves of absence, sick leave, or any other leave;

(vi) Fringe benefits available by virtue of employment, whether or not administered by the Contractor;

(vii) Selection and financial support for training, including apprenticeships, professional meetings, conferences, and other related activities, and selection for leaves of absence to pursue training;

(viii) Activities sponsored by the Contractor, including social or recreational programs; and

(ix) Any other term, condition, or privilege of employment.

(2) The Contractor agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor (Secretary) issued under the Rehabilitation Act of 1973 (29 U.S.C. 793) (the Act), as amended.

(b) Postings. (1) The Contractor agrees to post employment notices stating--

(i) The Contractor's obligation under the law to take affirmative action to employ and advance in employment qualified individuals with disabilities; and

(ii) The rights of applicants and employees.

(2) These notices shall be posted in conspicuous places that are available to employees and applicants for employment. The Contractor shall ensure that applicants and employees with disabilities are informed of the contents of the notice (e.g., the Contractor may have the notice read to a visually disabled individual, or may lower the posted notice so that it might be read by a person in a wheelchair). The notices shall be in a form prescribed by the Deputy Assistant Secretary for Federal Contract Compliance of the U.S. Department of Labor (Deputy Assistant Secretary) and shall be provided by or through the Contracting Officer.

(3) The Contractor shall notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the Contractor is bound by the terms of Section 503 of the Act and is committed to take affirmative action to employ, and advance in employment, qualified individuals with physical or mental disabilities.

(c) Noncompliance. If the Contractor does not comply with the requirements of this clause, appropriate actions may be taken under the rules, regulations, and relevant orders of the Secretary issued pursuant to the Act.

(d) Subcontracts. The Contractor shall include the terms of this clause in every subcontract or purchase order in excess of \$10,000 unless exempted by rules, regulations, or orders of the Secretary. The Contractor shall act as specified by the Deputy Assistant Secretary to enforce the terms, including action for noncompliance.

(End of clause)

52.222-37 EMPLOYMENT REPORTS ON SPECIAL DISABLED VETERANS, VETERANS OF THE VIETNAM ERA, AND OTHER ELIGIBLE VETERANS (SEP 2006)

(a) Unless the Contractor is a State or local government agency, the Contractor shall report at least annually, as required by the Secretary of Labor, on--

(1) The number of disabled veterans and the number of veterans of the Vietnam era in the workforce of the contractor by job category and hiring location; and

(2) The total number of new employees hired during the period covered by the report, and of that total, the number of disabled veterans, and the number of veterans of the Vietnam era.

(b) The above items shall be reported by completing the form entitled "Federal Contractor Veterans' Employment Report VETS-100."

(c) Reports shall be submitted no later than September 30 of each year beginning September 30, 1988.

(d) The employment activity report required by paragraph (a)(2) of this clause shall reflect total hires during the most recent 12-month period as of the ending date selected for the employment profile report required by paragraph (a)(1) of this clause. Contractors may select an ending date: (1) As of the end of any pay period during the period January through March 1st of the year the report is due, or (2) as of December 31, if the contractor has previous written approval from the Equal Employment Opportunity Commission to do so for purposes of submitting the Employer Information Report EEO-1 (Standard Form 100).

(e) The count of veterans reported according to paragraph (a) of this clause shall be based on voluntary disclosure. Each Contractor subject to the reporting requirements at 38 U.S.C. 4212 shall invite all disabled veterans and veterans of the Vietnam era who wish to benefit under the affirmative action program at 38 U.S.C. 4212 to identify themselves to the Contractor. The invitation shall state that the information is voluntarily provided; that the information will be kept confidential; that disclosure or refusal to provide the information will not subject the applicant or employee to any adverse treatment; and that the information will be used only in accordance with the regulations promulgated under 38 U.S.C. 4212.

(f) Subcontracts. The Contractor shall include the terms of this clause in every subcontract or purchase order of \$100,000 or more unless exempted by rules, regulations, or orders of the Secretary.

(End of clause)

52.222-50 COMBATING TRAFFICKING IN PERSONS (FEB 2009)

(a) Definitions. As used in this clause--

Coercion means--

(1) Threats of serious harm to or physical restraint against any person;

(2) Any scheme, plan, or pattern intended to cause a person to believe that failure to perform an act would result in serious harm to or physical restraint against any person; or

(3) The abuse or threatened abuse of the legal process.

Commercial sex act means any sex act on account of which anything of value is given to or received by any person.

Debt bondage means the status or condition of a debtor arising from a pledge by the debtor of his or her personal services or of those of a person under his or her control as a security for debt, if the value of those services as reasonably assessed is not applied toward the liquidation of the debt or the length and nature of those services are not respectively limited and defined.

Employee means an employee of the Contractor directly engaged in the performance of work under the contract who has other than a minimal impact or involvement in contract performance.

Forced Labor means knowingly providing or obtaining the labor or services of a person--

(1) By threats of serious harm to, or physical restraint against, that person or another person;

(2) By means of any scheme, plan, or pattern intended to cause the person to believe that, if the person did not perform such labor or services, that person or another person would suffer serious harm or physical restraint; or

(3) By means of the abuse or threatened abuse of law or the legal process.

Involuntary servitude includes a condition of servitude induced by means of--

(1) Any scheme, plan, or pattern intended to cause a person to believe that, if the person did not enter into or continue in such conditions, that person or another person would suffer serious harm or physical restraint; or

(2) The abuse or threatened abuse of the legal process.

Severe forms of trafficking in persons means--

(1) Sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or

(2) The recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

Sex trafficking means the recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act.

(b) Policy. The United States Government has adopted a zero tolerance policy regarding trafficking in persons. Contractors and contractor employees shall not--

(1) Engage in severe forms of trafficking in persons during the period of performance of the contract;

(2) Procure commercial sex acts during the period of performance of the contract; or

(3) Use forced labor in the performance of the contract.

(c) Contractor requirements. The Contractor shall--

(1) Notify its employees of--

(i) The United States Government's zero tolerance policy described in paragraph (b) of this clause; and

(ii) The actions that will be taken against employees for violations of this policy. Such actions may include, but are not limited to, removal from the contract, reduction in benefits, or termination of employment; and

(2) Take appropriate action, up to and including termination, against employees or subcontractors that violate the policy in paragraph (b) of this clause.

(d) Notification. The Contractor shall inform the Contracting Officer immediately of--

(1) Any information it receives from any source (including host country law enforcement) that alleges a Contractor employee, subcontractor, or subcontractor employee has engaged in conduct that violates this policy; and

(2) Any actions taken against Contractor employees, subcontractors, or subcontractor employees pursuant to this clause.

(e) Remedies. In addition to other remedies available to the Government, the Contractor's failure to comply with the requirements of paragraphs (c), (d), or (f) of this clause may result in --

(1) Requiring the Contractor to remove a Contractor employee or employees from the performance of the contract;

(2) Requiring the Contractor to terminate a subcontract;

(3) Suspension of contract payments;

(4) Loss of award fee, consistent with the award fee plan, for the performance period in which the Government determined Contractor non-compliance;

(5) Termination of the contract for default or cause, in accordance with the termination clause of this contract; or

(6) Suspension or debarment.

(f) Subcontracts. The Contractor shall include the substance of this clause, including this paragraph (f), in all subcontracts.

(g) Mitigating Factor. The Contracting Officer may consider whether the Contractor had a Trafficking in Persons awareness program at the time of the violation as a mitigating factor when determining remedies. Additional information about Trafficking in Persons and examples of awareness programs can be found at the website for the Department of State's Office to Monitor and Combat Trafficking in Persons at <http://www.state.gov/g/tip>.

(End of clause)

52.223-3 HAZARDOUS MATERIAL IDENTIFICATION AND MATERIAL SAFETY DATA (JAN 1997)

(a) "Hazardous material", as used in this clause, includes any material defined as hazardous under the latest version of Federal Standard No. 313 (including revisions adopted during the term of the contract).

(b) The offeror must list any hazardous material, as defined in paragraph (a) of this clause, to be delivered under this contract. The hazardous material shall be properly identified and include any applicable identification number, such as National Stock Number or Special Item Number. This information shall also be included on the Material Safety Data Sheet submitted under this contract.

| Material (If none, insert "None") | Identification No. |
|---|--------------------|
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |

(c) This list must be updated during performance of the contract whenever the Contractor determines that any other material to be delivered under this contract is hazardous.

(d) The apparently successful offeror agrees to submit, for each item as required prior to award, a Material Safety Data Sheet, meeting the requirements of 29 CFR 1910.1200(g) and the latest version of Federal Standard No. 313, for all hazardous material identified in paragraph (b) of this clause. Data shall be submitted in accordance with Federal Standard No. 313, whether or not the apparently successful offeror is the actual manufacturer of these items. Failure to submit the Material Safety Data Sheet prior to award may result in the apparently successful offeror being considered nonresponsible and ineligible for award.

(e) If, after award, there is a change in the composition of the item(s) or a revision to Federal Standard No. 313, which renders incomplete or inaccurate the data submitted under paragraph (d) of this clause, the Contractor shall promptly notify the Contracting Officer and resubmit the data.

(f) Neither the requirements of this clause nor any act or failure to act by the Government shall relieve the Contractor of any responsibility or liability for the safety of Government, Contractor, or subcontractor personnel or property.

(g) Nothing contained in this clause shall relieve the Contractor from complying with applicable Federal, State, and local laws, codes, ordinances, and regulations (including the obtaining of licenses and permits) in connection with hazardous material.

(h) The Government's rights in data furnished under this contract with respect to hazardous material are as follows:

(1) To use, duplicate and disclose any data to which this clause is applicable. The purposes of this right are to--

(i) Apprise personnel of the hazards to which they may be exposed in using, handling, packaging, transporting, or disposing of hazardous materials;

(ii) Obtain medical treatment for those affected by the material; and

(iii) Have others use, duplicate, and disclose the data for the Government for these purposes.

(2) To use, duplicate, and disclose data furnished under this clause, in accordance with subparagraph (h)(1) of this clause, in precedence over any other clause of this contract providing for rights in data.

(3) The Government is not precluded from using similar or identical data acquired from other sources.

(End of clause)

52.223-5 POLLUTION PREVENTION AND RIGHT-TO-KNOW INFORMATION (AUG 2003)

(a) Definitions. As used in this clause--

Priority chemical means a chemical identified by the Interagency Environmental Leadership Workgroup or, alternatively, by an agency pursuant to section 503 of Executive Order 13148 of April 21, 2000, Greening the Government through Leadership in Environmental Management.

“Toxic chemical means a chemical or chemical category listed in 40 CFR 372.65.”

(b) Executive Order 13148 requires Federal facilities to comply with the provisions of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA) (42 U.S.C. 11001-11050) and the Pollution Prevention Act of 1990 (PPA) (42 U.S.C. 13101-13109).

(c) The Contractor shall provide all information needed by the Federal facility to comply with the following:

(1) The emergency planning reporting requirements of section 302 of EPCRA.

(2) The emergency notice requirements of section 304 of EPCRA.

(3) The list of Material Safety Data Sheets, required by section 311 of EPCRA.

(4) The emergency and hazardous chemical inventory forms of section 312 of EPCRA.

(5) The toxic chemical release inventory of section 313 of EPCRA, which includes the reduction and recycling information required by section 6607 of PPA.

(6) The toxic chemical, priority chemical, and hazardous substance release and use reduction goals of sections 502 and 503 of Executive Order 13148.

(End of clause)

52.223-14 TOXIC CHEMICAL RELEASE REPORTING (AUG 2003)

(a) Unless otherwise exempt, the Contractor, as owner or operator of a facility used in the performance of this contract, shall file by July 1 for the prior calendar year an annual Toxic Chemical Release Inventory Form (Form R) as described in sections 313(a) and (g) of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA) (42 U.S.C. 11023(a) and (g)), and section 6607 of the Pollution Prevention Act of 1990 (PPA) (42 U.S.C. 13106). The Contractor shall file, for each facility subject to the Form R filing and reporting requirements, the annual Form R throughout the life of the contract.

(b) A Contractor-owned or -operated facility used in the performance of this contract is exempt from the requirement to file an annual Form R if--

(1) The facility does not manufacture, process, or otherwise use any toxic chemicals listed in 40 CFR 372.65;

(2) The facility does not have 10 or more full-time employees as specified in section 313(b)(1)(A) of EPCRA, 42 U.S.C. 11023(b)(1)(A);

(3) The facility does not meet the reporting thresholds of toxic chemicals established under of EPCRA, 42 U.S.C. 11023(f) (including the alternate thresholds at 40 CFR 372.27, provided an appropriate certification form has been filed with EPA);

(4) The facility does not fall within the following Standard Industrial Classification (SIC) codes or their corresponding North American Industry Classification System sectors:

(i) Major group code 10 (except 1011, 1081, and 1094.

(ii) Major group code 12 (except 1241).

(iii) Major group codes 20 through 39.

(iv) Industry code 4911, 4931, or 4939 (limited to facilities that combust coal and/or oil for the purpose of generating power for distribution in commerce).

(v) Industry code 4953 (limited to facilities regulated under the Resource Conservation and Recovery Act, Subtitle C (42 U.S.C. 6921, et seq.)), 5169, 5171, or 7389 (limited to facilities primarily engaged in solvent recovery services on a contract or fee basis); or

(5) The facility is not located in the United States or its outlying areas.

(c) If the Contractor has certified to an exemption in accordance with one or more of the criteria in paragraph (b) of this clause, and after award of the contract circumstances change so that any of its owned or operated facilities used in the performance of this contract is no longer exempt--

(1) The Contractor shall notify the Contracting Officer; and

(2) The Contractor, as owner or operator of a facility used in the performance of this contract that is no longer exempt, shall (i) submit a Toxic Chemical Release Inventory Form (Form R) on or before July 1 for the prior calendar year during which the facility becomes eligible; and (ii) continue to file the annual Form R for the life of the contract for such facility.

(d) The Contracting Officer may terminate this contract or take other action as appropriate, if the Contractor fails to comply accurately and fully with the EPCRA and PPA toxic chemical release filing and reporting requirements.

(e) Except for acquisitions of commercial items, as defined in FAR Part 2, the Contractor shall--

(1) For competitive subcontracts expected to exceed \$100,000 (including all options), include a solicitation provision substantially the same as the provision at FAR 52.223-13, Certification of Toxic Chemical Release Reporting; and

(2) Include in any resultant subcontract exceeding \$100,000 (including all options), the substance of this clause, except this paragraph (e).

(End of clause)

(a) Except as authorized by the Office of Foreign Assets Control (OFAC) in the Department of the Treasury, the Contractor shall not acquire, for use in the performance of this contract, any supplies or services if any proclamation, Executive order, or statute administered by OFAC, or if OFAC's implementing regulations at 31 CFR chapter V, would prohibit such a transaction by a person subject to the jurisdiction of the United States.

(b) Except as authorized by OFAC, most transactions involving Cuba, Iran, and Sudan are prohibited, as are most imports from Burma or North Korea, into the United States or its outlying areas. Lists of entities and individuals subject to economic sanctions are included in OFAC's List of Specially Designated Nationals and Blocked Persons at [TerList1.html](http://www.treas.gov/offices/enforcement/ofac/). More information about these restrictions, as well as updates, is available in the OFAC's regulations at 31 CFR chapter V and/or on OFAC's Web site at <http://www.treas.gov/offices/enforcement/ofac/>.

(c) The Contractor shall insert this clause, including this paragraph (c), in all subcontracts.

(End of clause)

52.225-14 INCONSISTENCY BETWEEN ENGLISH VERSION AND TRANSLATION OF CONTRACT (FEB 2000)

In the event of inconsistency between any terms of this contract and any translation into another language, the English language meaning shall control.

(End of clause)

52.225-19 CONTRACTOR PERSONNEL IN A DESIGNATED OPERATIONAL AREA OR SUPPORTING A DIPLOMATIC OR CONSULAR MISSION OUTSIDE THE UNITED STATES (MAR 2008)

(a) Definitions. As used in this clause--

Chief of mission means the principal officer in charge of a diplomatic mission of the United States or of a United States office abroad which is designated by the Secretary of State as diplomatic in nature, including any individual assigned under section 502(c) of the Foreign Service Act of 1980 (Pub. L. 96-465) to be temporarily in charge of such a mission or office.

Combatant commander means the commander of a unified or specified combatant command established in accordance with 10 U.S.C. 161.

Designated operational area means a geographic area designated by the combatant commander or subordinate joint force commander for the conduct or support of specified military operations.

Supporting a diplomatic or consular mission means performing outside the United States under a contract administered by Federal agency personnel who are subject to the direction of a chief of mission.

(b) General. (1) This clause applies when Contractor personnel are required to perform outside the United States--

(i) In a designated operational area during--

(A) Contingency operations;

(B) Humanitarian or peacekeeping operations; or

(C) Other military operations; or military exercises, when designated by the Combatant Commander; or

(ii) When supporting a diplomatic or consular mission--

(A) That has been designated by the Department of State as a danger pay post (see <http://aoprals.state.gov/Web920/danger--pay--all.asp>); or

(B) That the Contracting Officer has indicated is subject to this clause.

(2) Contract performance may require work in dangerous or austere conditions. Except as otherwise provided in the contract, the Contractor accepts the risks associated with required contract performance in such operations.

(3) Contractor personnel are civilians.

(i) Except as provided in paragraph (b)(3)(ii) of this clause, and in accordance with paragraph (i)(3) of this clause, Contractor personnel are only authorized to use deadly force in self-defense.

(ii) Contractor personnel performing security functions are also authorized to use deadly force when use of such force reasonably appears necessary to execute their security mission to protect assets/persons, consistent with the terms and conditions contained in the contract or with their job description and terms of employment.

(4) Service performed by Contractor personnel subject to this clause is not active duty or service under 38 U.S.C. 106 note.

(c) Support. Unless specified elsewhere in the contract, the Contractor is responsible for all logistical and security support required for Contractor personnel engaged in this contract.

(d) Compliance with laws and regulations. The Contractor shall comply with, and shall ensure that its personnel in the designated operational area or supporting the diplomatic or consular mission are familiar with and comply with, all applicable--

(1) United States, host country, and third country national laws;

(2) Treaties and international agreements;

(3) United States regulations, directives, instructions, policies, and procedures; and

(4) Force protection, security, health, or safety orders, directives, and instructions issued by the Chief of Mission or the Combatant Commander; however, only the Contracting Officer is authorized to modify the terms and conditions of the contract.

(e) Preliminary personnel requirements. (1) Specific requirements for paragraphs (e)(2)(i) through (e)(2)(vi) of this clause will be set forth in the statement of work, or elsewhere in the contract.

(2) Before Contractor personnel depart from the United States or a third country, and before Contractor personnel residing in the host country begin contract performance in the designated operational area or supporting the diplomatic or consular mission, the Contractor shall ensure the following:

(i) All required security and background checks are complete and acceptable.

(ii) All personnel are medically and physically fit and have received all required vaccinations.

(iii) All personnel have all necessary passports, visas, entry permits, and other documents required for Contractor personnel to enter and exit the foreign country, including those required for in-transit countries.

(iv) All personnel have received--

(A) A country clearance or special area clearance, if required by the chief of mission; and

(B) Theater clearance, if required by the Combatant Commander.

(v) All personnel have received personal security training. The training must at a minimum--

(A) Cover safety and security issues facing employees overseas;

(B) Identify safety and security contingency planning activities; and

(C) Identify ways to utilize safety and security personnel and other resources appropriately.

(vi) All personnel have received isolated personnel training, if specified in the contract. Isolated personnel are military or civilian personnel separated from their unit or organization in an environment requiring them to survive, evade, or escape while awaiting rescue or recovery.

(vii) All personnel who are U.S. citizens are registered with the U.S. Embassy or Consulate with jurisdiction over the area of operations on-line at <http://www.travel.state.gov>.

(3) The Contractor shall notify all personnel who are not a host country national or ordinarily resident in the host country that--

(i) If this contract is with the Department of Defense, or the contract relates to supporting the mission of the Department of Defense outside the United States, such employees, and dependents residing with such employees, who engage in conduct outside the United States that would constitute an offense punishable by imprisonment for more than one year if the conduct had been engaged in within the special maritime and territorial jurisdiction of the United States, may potentially be subject to the criminal jurisdiction of the United States (see the Military Extraterritorial Jurisdiction Act of 2000 (18 U.S.C. 3261 et seq.);

(ii) Pursuant to the War Crimes Act, 18 U.S.C. 2441, Federal criminal jurisdiction also extends to conduct that is determined to constitute a war crime when committed by a civilian national of the United States; and

(iii) Other laws may provide for prosecution of U.S. nationals who commit offenses on the premises of United States diplomatic, consular, military or other United States Government missions outside the United States (18 U.S.C. 7(9)).

(f) Processing and departure points. The Contractor shall require its personnel who are arriving from outside the area of performance to perform in the designated operational area or supporting the diplomatic or consular mission to--

(1) Process through the departure center designated in the contract or complete another process as directed by the Contracting Officer;

(2) Use a specific point of departure and transportation mode as directed by the Contracting Officer; and

(3) Process through a reception center as designated by the Contracting Officer upon arrival at the place of performance.

(g) Personnel data. (1) Unless personnel data requirements are otherwise specified in the contract, the Contractor shall establish and maintain with the designated Government official a current list of all Contractor personnel in the areas of performance. The Contracting Officer will inform the Contractor of the Government official designated to receive this data and the appropriate system to use for this effort.

(2) The Contractor shall ensure that all employees on this list have a current record of emergency data, for notification of next of kin, on file with both the Contractor and the designated Government official.

(h) Contractor personnel. The Contracting Officer may direct the Contractor, at its own expense, to remove and replace any Contractor personnel who fail to comply with or violate applicable requirements of this contract. Such action may be taken at the Government's discretion without prejudice to its rights under any other provision of this contract, including termination for default or cause.

(i) Weapons. (1) If the Contracting Officer, subject to the approval of the Combatant Commander or the Chief of Mission, authorizes the carrying of weapons--

(i) The Contracting Officer may authorize an approved Contractor to issue Contractor-owned weapons and ammunition to specified employees; or

(ii) The **NOT APPLICABLE TO THIS CONTRACT** may issue Government-furnished weapons and ammunition to the Contractor for issuance to specified Contractor employees.

(2) The Contractor shall provide to the Contracting Officer a specific list of personnel for whom authorization to carry a weapon is requested.

(3) The Contractor shall ensure that its personnel who are authorized to carry weapons--

(i) Are adequately trained to carry and use them--

(A) Safely;

(B) With full understanding of, and adherence to, the rules of the use of force issued by the Combatant Commander or the Chief of Mission; and

(C) In compliance with applicable agency policies, agreements, rules, regulations, and other applicable law;

(ii) Are not barred from possession of a firearm by 18 U.S.C. 922; and

(iii) Adhere to all guidance and orders issued by the Combatant Commander or the Chief of Mission regarding possession, use, safety, and accountability of weapons and ammunition.

(4) Upon revocation by the Contracting Officer of the Contractor's authorization to possess weapons, the Contractor shall ensure that all Government-furnished weapons and unexpended ammunition are returned as directed by the Contracting Officer.

(5) Whether or not weapons are Government-furnished, all liability for the use of any weapon by Contractor personnel rests solely with the Contractor and the Contractor employee using such weapon.

(j) Vehicle or equipment licenses. Contractor personnel shall possess the required licenses to operate all vehicles or equipment necessary to perform the contract in the area of performance.

(k) Military clothing and protective equipment. (1) Contractor personnel are prohibited from wearing military clothing unless specifically authorized by the Combatant Commander. If authorized to wear military clothing,

Contractor personnel must wear distinctive patches, armbands, nametags, or headgear, in order to be distinguishable from military personnel, consistent with force protection measures.

(2) Contractor personnel may wear specific items required for safety and security, such as ballistic, nuclear, biological, or chemical protective equipment.

(l) Evacuation. (1) If the Chief of Mission or Combatant Commander orders a mandatory evacuation of some or all personnel, the Government will provide to United States and third country national Contractor personnel the level of assistance provided to private United States citizens.

(2) In the event of a non-mandatory evacuation order, the Contractor shall maintain personnel on location sufficient to meet contractual obligations unless instructed to evacuate by the Contracting Officer.

(m) Personnel recovery.

(1) In the case of isolated, missing, detained, captured or abducted Contractor personnel, the Government will assist in personnel recovery actions.

(2) Personnel recovery may occur through military action, action by non-governmental organizations, other Government-approved action, diplomatic initiatives, or through any combination of these options.

(3) The Department of Defense has primary responsibility for recovering DoD contract service employees and, when requested, will provide personnel recovery support to other agencies in accordance with DoD Directive 2310.2, Personnel Recovery.

(n) Notification and return of personal effects.

(1) The Contractor shall be responsible for notification of the employee-designated next of kin, and notification as soon as possible to the U.S. Consul responsible for the area in which the event occurred, if the employee--

(i) Dies;

(ii) Requires evacuation due to an injury; or

(iii) Is isolated, missing, detained, captured, or abducted.

(2) The Contractor shall also be responsible for the return of all personal effects of deceased or missing Contractor personnel, if appropriate, to next of kin.

(o) Mortuary affairs. Mortuary affairs for Contractor personnel who die in the area of performance will be handled as follows:

(1) If this contract was awarded by DoD, the remains of Contractor personnel will be handled in accordance with DoD Directive 1300.22, Mortuary Affairs Policy.

(2)(i) If this contract was awarded by an agency other than DoD, the Contractor is responsible for the return of the remains of Contractor personnel from the point of identification of the remains to the location specified by the employee or next of kin, as applicable, except as provided in paragraph (o)(2)(ii) of this clause.

(ii) In accordance with 10 U.S.C. 1486, the Department of Defense may provide, on a reimbursable basis, mortuary support for the disposition of remains and personal effects of all U.S. citizens upon the request of the Department of State.

(p) Changes. In addition to the changes otherwise authorized by the Changes clause of this contract, the Contracting Officer may, at any time, by written order identified as a change order, make changes in place of performance or Government-furnished facilities, equipment, material, services, or site. Any change order issued in accordance with this paragraph shall be subject to the provisions of the Changes clause of this contract.

(q) Subcontracts. The Contractor shall incorporate the substance of this clause, including this paragraph (q), in all subcontracts that require subcontractor personnel to perform outside the United States--

(1) In a designated operational area during--

(i) Contingency operations;

(ii) Humanitarian or peacekeeping operations; or

(iii) Other military operations; or military exercises, when designated by the Combatant Commander; or

(2) When supporting a diplomatic or consular mission--

(i) That has been designated by the Department of State as a danger pay post (see <http://aoprals.state.gov/Web920/danger--pay--all.asp>); or

(ii) That the Contracting Officer has indicated is subject to this clause.

(End of clause)

52.227-1 AUTHORIZATION AND CONSENT (DEC 2007)

(a) The Government authorizes and consents to all use and manufacture, in performing this contract or any subcontract at any tier, of any invention described in and covered by a United States patent--

(1) Embodied in the structure or composition of any article the delivery of which is accepted by the Government under this contract; or

(2) Used in machinery, tools, or methods whose use necessarily results from compliance by the Contractor or a subcontractor with (i) specifications or written provisions forming a part of this contract or (ii) specific written instructions given by the Contracting Officer directing the manner of performance. The entire liability to the Government for infringement of a United States patent shall be determined solely by the provisions of the indemnity clause, if any, included in this contract or any subcontract hereunder (including any lower-tier subcontract), and the Government assumes liability for all other infringement to the extent of the authorization and consent hereinabove granted.

(b) The Contractor shall include the substance of this clause, including this paragraph (b), in all subcontracts that are expected to exceed the simplified acquisition threshold. However, omission of this clause from any subcontract, including those at or below the simplified acquisition threshold, does not affect this authorization and consent.

(End of clause)

52.227-2 NOTICE AND ASSISTANCE REGARDING PATENT AND COPYRIGHT INFRINGEMENT (DEC 2007)

(a) The Contractor shall report to the Contracting Officer, promptly and in reasonable written detail, each notice or claim of patent or copyright infringement based on the performance of this contract of which the Contractor has knowledge.

(b) In the event of any claim or suit against the Government on account of any alleged patent or copyright infringement arising out of the performance of this contract or out of the use of any supplies furnished or work or services performed under this contract, the Contractor shall furnish to the Government, when requested by the Contracting Officer, all evidence and information in the Contractor's possession pertaining to such claim or suit. Such evidence and information shall be furnished at the expense of the Government except where the Contractor has agreed to indemnify the Government.

(c) The Contractor shall include the substance of this clause, including this paragraph (c), in all subcontracts that are expected to exceed the simplified acquisition threshold.

(End of clause)

CLAUSES INCORPORATED BY FULL TEXT

52.227-4 PATENT INDEMNITY--CONSTRUCTION CONTRACTS (DEC 2007)

Except as otherwise provided, the Contractor shall indemnify the Government and its officers, agents, and employees against liability, including costs and expenses, for infringement of any United States patent (except a patent issued upon an application that is now or may hereafter be withheld from issue pursuant to a Secrecy Order under 35 U.S.C. 181) arising out of performing this contract or out of the use or disposal by or for the account of the Government of supplies furnished or work performed under this contract.

(End of clause)

52.228-2 ADDITIONAL BOND SECURITY (OCT 1997)

The Contractor shall promptly furnish additional security required to protect the Government and persons supplying labor or materials under this contract if--

(a) Any surety upon any bond, or issuing financial institution for other security, furnished with this contract becomes unacceptable to the Government.

(b) Any surety fails to furnish reports on its financial condition as required by the Government;

(c) The contract price is increased so that the penal sum of any bond becomes inadequate in the opinion of the Contracting Officer; or

(d) An irrevocable letter of credit (ILC) used as security will expire before the end of the period of required security. If the Contractor does not furnish an acceptable extension or replacement ILC, or other acceptable substitute, at least 30 days before an ILC's scheduled expiration, the Contracting officer has the right to immediately draw on the ILC.

(End of clause)

52.228-3 WORKERS' COMPENSATION INSURANCE (DEFENSE BASE ACT) (APR 1984)

The Contractor shall (a) provide, before commencing performance under this contract, such workers' compensation insurance or security as the Defense Base Act (42 U.S.C. 1651, et seq.) requires and (b) continue to maintain it until performance is completed. The Contractor shall insert, in all subcontracts under this contract to which the Defense Base Act applies, a clause similar to this clause (including this sentence) imposing upon those subcontractors this requirement to comply with the Defense Base Act.

(End of clause)

52.228-11 PLEDGES OF ASSETS (SEP 2009)

(a) Offerors shall obtain from each person acting as an individual surety on a bid guarantee, a performance bond, or a payment bond--

(1) Pledge of assets; and

(2) Standard Form 28, Affidavit of Individual Surety.

(b) Pledges of assets from each person acting as an individual surety shall be in the form of--

(1) Evidence of an escrow account containing cash, certificates of deposit, commercial or Government securities, or other assets described in FAR 28.203-2 (except see 28.203-2(b)(2) with respect to Government securities held in book entry form); and/or

(2) A recorded lien on real estate. The offeror will be required to provide--

(i) A mortgagee title insurance policy, in an insurance amount equal to the amount of the lien, or other evidence of title that is consistent with the requirements of Section 2 of the United States Department of Justice Title Standards at http://www.usdoj.gov/enrd/2001_Title_Standards.htm. This title evidence must show fee simple title vested in the surety along with any concurrent owners; whether any real estate taxes are due and payable; and any recorded encumbrances against the property, including the lien filed in favor of the Government as required by FAR 28.203-3(d);

(ii) Evidence of the amount due under any encumbrance shown in the evidence of title;

(iii) A copy of the current real estate tax assessment of the property or a current appraisal dated no earlier than 6 months prior to the date of the bond, prepared by a professional appraiser who certifies that the appraisal has been conducted in accordance with the generally accepted appraisal standards as reflected in the Uniform Standards of Professional Appraisal Practice, as promulgated by the Appraisal Foundation.

(End of clause)

52.228-12 PROSPECTIVE SUBCONTRACTOR REQUESTS FOR BONDS. (OCT 1995)

In accordance with Section 806(a)(3) of Pub. L. 102-190, as amended by Sections 2091 and 8105 of Pub. L. 103-355, upon the request of a prospective subcontractor or supplier offering to furnish labor or material for the performance of this contract for which a payment bond has been furnished to the Government pursuant to the Miller Act, the Contractor shall promptly provide a copy of such payment bond to the requester.

(End of clause)

52.228-14 IRREVOCABLE LETTER OF CREDIT (DEC 1999)

(a) "Irrevocable letter of credit" (ILC), as used in this clause, means a written commitment by a federally insured financial institution to pay all or part of a stated amount of money, until the expiration date of the letter, upon presentation by the Government (the beneficiary) of a written demand therefor. Neither the financial institution nor the offeror/Contractor can revoke or condition the letter of credit.

(b) If the offeror intends to use an ILC in lieu of a bid bond, or to secure other types of bonds such as performance and payment bonds, the letter of credit and letter of confirmation formats in paragraphs (e) and (f) of this clause shall be used.

(c) The letter of credit shall be irrevocable, shall require presentation of no document other than a written demand and the ILC (including confirming letter, if any), shall be issued/confirmed by an acceptable federally insured financial institution as provided in paragraph (d) of this clause, and--

(1) If used as a bid guarantee, the ILC shall expire no earlier than 60 days after the close of the bid acceptance period;

(2) If used as an alternative to corporate or individual sureties as security for a performance or payment bond, the offeror/Contractor may submit an ILC with an initial expiration date estimated to cover the entire period for which financial security is required or may submit an ILC with an initial expiration date that is a minimum period of one year from the date of issuance. The ILC shall provide that, unless the issuer provides the beneficiary written notice of non-renewal at least 60 days in advance of the current expiration date, the ILC is automatically extended without amendment for one year from the expiration date, or any future expiration date, until the period of required coverage is completed and the Contracting Officer provides the financial institution with a written statement waiving the right to payment. The period of required coverage shall be:

(i) For contracts subject to the Miller Act, the later of--

(A) One year following the expected date of final payment;

(B) For performance bonds only, until completion of any warranty period; or

(C) For payment bonds only, until resolution of all claims filed against the payment bond during the one-year period following final payment.

(ii) For contracts not subject to the Miller Act, the later of--

(A) 90 days following final payment; or

(B) For performance bonds only, until completion of any warranty period.

(d) Only federally insured financial institutions rated investment grade or higher shall issue or confirm the ILC. The offeror/Contractor shall provide the Contracting Officer a credit rating that indicates the financial institution has the required rating(s) as of the date of issuance of the ILC. Unless the financial institution issuing the ILC had letter of credit business of less than \$25 million in the past year, ILCs over \$5 million must be confirmed by another acceptable financial institution that had letter of credit business of less than \$25 million in the past year.

(e) The following format shall be used by the issuing financial institution to create an ILC:

[Issuing Financial Institution's Letterhead or Name and Address]

Issue Date _____

IRREVOCABLE LETTER OF CREDIT NO. _____

Account party's name _____

Account party's address _____

For Solicitation No. _____(for reference only)

TO: [U.S. Government agency]

[U.S. Government agency's address]

1. We hereby establish this irrevocable and transferable Letter of Credit in your favor for one or more drawings up to United States \$_____. This Letter of Credit is payable at [issuing financial institution's and, if any, confirming financial institution's] office at [issuing financial institution's address and, if any, confirming financial institution's address] and expires with our close of business on _____, or any automatically extended expiration date.

2. We hereby undertake to honor your or the transferee's sight draft(s) drawn on the issuing or, if any, the confirming financial institution, for all or any part of this credit if presented with this Letter of Credit and confirmation, if any, at the office specified in paragraph 1 of this Letter of Credit on or before the expiration date or any automatically extended expiration date.

3. [This paragraph is omitted if used as a bid guarantee, and subsequent paragraphs are renumbered.] It is a condition of this Letter of Credit that it is deemed to be automatically extended without amendment for one year from the expiration date hereof, or any future expiration date, unless at least 60 days prior to any expiration date, we notify you or the transferee by registered mail, or other receipted means of delivery, that we elect not to consider this Letter of Credit renewed for any such additional period. At the time we notify you, we also agree to notify the account party (and confirming financial institution, if any) by the same means of delivery.

4. This Letter of Credit is transferable. Transfers and assignments of proceeds are to be effected without charge to either the beneficiary or the transferee/assignee of proceeds. Such transfer or assignment shall be only at the written direction of the Government (the beneficiary) in a form satisfactory to the issuing financial institution and the confirming financial institution, if any.

5. This Letter of Credit is subject to the Uniform Customs and Practice (UCP) for Documentary Credits, 1993 Revision, International Chamber of Commerce Publication No. 500, and to the extent not inconsistent therewith, to the laws of _____ [state of confirming financial institution, if any, otherwise state of issuing financial institution].

6. If this credit expires during an interruption of business of this financial institution as described in Article 17 of the

UCP, the financial institution specifically agrees to effect payment if this credit is drawn against within 30 days after the resumption of our business.

Sincerely,

[Issuing financial institution]

(f) The following format shall be used by the financial institution to confirm an ILC:

[Confirming Financial Institution's Letterhead or Name and Address]

(Date) _____

Our Letter of Credit Advice Number _____

Beneficiary: _____ [U.S. Government agency]

Issuing Financial Institution: _____

Issuing Financial Institution's LC No.: _____

Gentlemen:

1. We hereby confirm the above indicated Letter of Credit, the original of which is attached, issued by _____ [name of issuing financial institution] for drawings of up to United States dollars _____/U.S. \$_____ and expiring with our close of business on _____ [the expiration date], or any automatically extended expiration date.

2. Draft(s) drawn under the Letter of Credit and this Confirmation are payable at our office located at _____.

3. We hereby undertake to honor sight draft(s) drawn under and presented with the Letter of Credit and this Confirmation at our offices as specified herein.

4. [This paragraph is omitted if used as a bid guarantee, and subsequent paragraphs are renumbered.] It is a condition of this confirmation that it be deemed automatically extended without amendment for one year from the expiration date hereof, or any automatically extended expiration date, unless:

(a) At least 60 days prior to any such expiration date, we shall notify the Contracting Officer, or the transferee and the issuing financial institution, by registered mail or other receipted means of delivery, that we elect not to consider this confirmation extended for any such additional period; or

(b) The issuing financial institution shall have exercised its right to notify you or the transferee, the account party, and ourselves, of its election not to extend the expiration date of the Letter of Credit.

5. This confirmation is subject to the Uniform Customs and Practice (UCP) for Documentary Credits, 1993 Revision, International Chamber of Commerce Publication No. 500, and to the extent not inconsistent therewith, to the laws of _____ [state of confirming financial institution].

6. If this confirmation expires during an interruption of business of this financial institution as described in Article 17 of the UCP, we specifically agree to effect payment if this credit is drawn against within 30 days after the resumption

of our business.

Sincerely,

[Confirming financial institution]

(g) The following format shall be used by the Contracting Officer for a sight draft to draw on the Letter of Credit:

SIGHT DRAFT

[City, State]

(Date) _____

[Name and address of financial institution]

Pay to the order of _____ [Beneficiary Agency] _____ the sum of United States \$ _____.
This draft is drawn under Irrevocable Letter of Credit No. _____.

[Beneficiary Agency]

By: _____

(End of clause)

52.228-15 PERFORMANCE AND PAYMENT BONDS--CONSTRUCTION (NOV 2006)

(a) Definitions. As used in this clause--

Original contract price means the award price of the contract; or, for requirements contracts, the price payable for the estimated total quantity; or, for indefinite-quantity contracts, the price payable for the specified minimum quantity. Original contract price does not include the price of any options, except those options exercised at the time of contract award.

(b) Amount of required bonds. Unless the resulting contract price is \$100,000 or less, the successful offeror shall furnish performance and payment bonds to the Contracting Officer as follows:

(1) Performance bonds (Standard Form 25). The penal amount of performance bonds at the time of contract award shall be 100 percent of the original contract price.

(2) Payment Bonds (Standard Form 25-A). The penal amount of payment bonds at the time of contract award shall be 100 percent of the original contract price.

(3) Additional bond protection. (i) The Government may require additional performance and payment bond protection if the contract price is increased. The increase in protection generally will equal 100 percent of the increase in contract price.

(ii) The Government may secure the additional protection by directing the Contractor to increase the penal amount of the existing bond or to obtain an additional bond.

(c) Furnishing executed bonds. The Contractor shall furnish all executed bonds, including any necessary reinsurance agreements, to the Contracting Officer, within the time period specified in the Bid Guarantee provision of the solicitation, or otherwise specified by the Contracting Officer, but in any event, before starting work.

(d) Surety or other security for bonds. The bonds shall be in the form of firm commitment, supported by corporate sureties whose names appear on the list contained in Treasury Department Circular 570, individual sureties, or by other acceptable security such as postal money order, certified check, cashier's check, irrevocable letter of credit, or, in accordance with Treasury Department regulations, certain bonds or notes of the United States. Treasury Circular 570 is published in the Federal Register or may be obtained from the U.S. Department of the Treasury, Financial Management Service, Surety Bond Branch, 3700 East West Highway, Room 6F01, Hyattsville, MD 20782. Or via the internet at <http://www.fms.treas.gov/c570/>.

(e) Notice of subcontractor waiver of protection (40 U.S.C. 3133(c)). Any waiver of the right to sue on the payment bond is void unless it is in writing, signed by the person whose right is waived, and executed after such person has first furnished labor or material for use in the performance of the contract.

(End of clause)

52.229-3 FEDERAL, STATE, AND LOCAL TAXES (APR 2003)

(a) As used in this clause--

"Contract date" means the date set for bid opening or, if this is a negotiated contract or a modification, the effective date of this contract or modification.

"All applicable Federal, State, and local taxes and duties" means all taxes and duties, in effect on the contract date, that the taxing authority is imposing and collecting on the transactions or property covered by this contract.

"After-imposed Federal tax" means any new or increased Federal excise tax or duty, or tax that was exempted or excluded on the contract date but whose exemption was later revoked or reduced during the contract period, on the transactions or property covered by this contract that the Contractor is required to pay or bear as the result of legislative, judicial, or administrative action taking effect after the contract date. It does not include social security tax or other employment taxes.

"After-relieved Federal tax" means any amount of Federal excise tax or duty, except social security or other employment taxes, that would otherwise have been payable on the transactions or property covered by this contract, but which the Contractor is not required to pay or bear, or for which the Contractor obtains a refund or drawback, as the result of legislative, judicial, or administrative action taking effect after the contract date.

Local taxes includes taxes imposed by a possession or territory of the United States, Puerto Rico, or the Northern Mariana Islands, if the contract is performed wholly or partly in any of those areas.

(b) The contract price includes all applicable Federal, State, and local taxes and duties.

(c) The contract price shall be increased by the amount of any after-imposed Federal tax, provided the Contractor warrants in writing that no amount for such newly imposed Federal excise tax or duty or rate increase was included in the contract price, as a contingency reserve or otherwise.

- (d) The contract price shall be decreased by the amount of any after-relieved Federal tax.
 - (e) The contract price shall be decreased by the amount of any Federal excise tax or duty, except social security or other employment taxes, that the Contractor is required to pay or bear, or does not obtain a refund of, through the Contractor's fault, negligence, or failure to follow instructions of the Contracting Officer.
 - (f) No adjustment shall be made in the contract price under this clause unless the amount of the adjustment exceeds \$250.
 - (g) The Contractor shall promptly notify the Contracting Officer of all matters relating to any Federal excise tax or duty that reasonably may be expected to result in either an increase or decrease in the contract price and shall take appropriate action as the Contracting Officer directs.
 - (h) The Government shall, without liability, furnish evidence appropriate to establish exemption from any Federal, State, or local tax when the Contractor requests such evidence and a reasonable basis exists to sustain the exemption.
- (End of clause)

52.229-6 TAXES--FOREIGN FIXED-PRICE CONTRACTS (JUN 2003)

(a) To the extent that this contract provides for furnishing supplies or performing services outside the United States and its outlying areas, this clause applies in lieu of any Federal, State, and local taxes clause of the contract.

(b) Definitions. As used in this clause--

"Contract date," means the date set for bid opening or, if this is a negotiated contract or a modification, the effective date of this contract or modification.

Country concerned means any country, other than the United States and its outlying areas, in which expenditures under this contract are made.

"Tax" and "taxes," include fees and charges for doing business that are levied by the government of the country concerned or by its political subdivisions.

"All applicable taxes and duties," means all taxes and duties, in effect on the contract date, that the taxing authority is imposing and collecting on the transactions or property covered by this contract, pursuant to written ruling or regulation in effect on the contract date.

"After-imposed tax," means any new or increased tax or duty, or tax that was exempted or excluded on the contract date but whose exemption was later revoked or reduced during the contract period, other than excepted tax, on the transactions or property covered by this contract that the Contractor is required to pay or bear as the result of legislative, judicial, or administrative action taking effect after the contract date.

"After-relieved tax," means any amount of tax or duty, other than an excepted tax, that would otherwise have been payable on the transactions or property covered by this contract, but which the Contractor is not required to pay or bear, or for which the Contractor obtains a refund, as the result of legislative, judicial, or administrative action taking effect after the contract date.

"Excepted tax," means social security or other employment taxes, net income and franchise taxes, excess profits taxes, capital stock taxes, transportation taxes, unemployment compensation taxes, and property taxes. "Excepted

tax" does not include gross income taxes levied on or measured by sales or receipts from sales, property taxes assessed on completed supplies covered by this contract, or any tax assessed on the Contractor's possession of, interest in, or use of property, title to which is in the U.S. Government.

(c) Unless otherwise provided in this contract, the contract price includes all applicable taxes and duties, except taxes and duties that the Government of the United States and the government of the country concerned have agreed shall not be applicable to expenditures in such country by or on behalf of the United States.

(d) The contract price shall be increased by the amount of any after-imposed tax or of any tax or duty specifically excluded from the contract price by a provision of this contract that the Contractor is required to pay or bear, including any interest or penalty, if the Contractor states in writing that the contract price does not include any contingency for such tax and if liability for such tax, interest, or penalty was not incurred through the Contractor's fault, negligence, or failure to follow instructions of the Contracting Officer or to comply with the provisions of paragraph (i) below.

(e) The contract price shall be decreased by the amount of any after-relieved tax, including any interest or penalty. The Government of the United States shall be entitled to interest received by the Contractor incident to a refund of taxes to the extent that such interest was earned after the Contractor was paid by the Government of the United States for such taxes. The Government of the United States shall be entitled to repayment of any penalty refunded to the Contractor to the extent that the penalty was paid by the Government.

(f) The contract price shall be decreased by the amount of any tax or duty, other than an excepted tax, that was included in the contract and that the Contractor is required to pay or bear, or does not obtain a refund of, through the Contractor's fault, negligence, or failure to follow instructions of the Contracting Officer or to comply with the provisions of paragraph (i) below.

(g) No adjustment shall be made in the contract price under this clause unless the amount of the adjustment exceeds \$250.

(h) If the Contractor obtains a reduction in tax liability under the United States Internal Revenue Code (Title 26, U.S. Code) because of the payment of any tax or duty that either was included in the contract price or was the basis of an increase in the contract price, the amount of the reduction shall be paid or credited to the Government of the United States as the Contracting Officer directs.

(i) The Contractor shall take all reasonable action to obtain exemption from or refund of any taxes or duties, including interest or penalty, from which the United States Government, the Contractor, any subcontractor, or the transactions or property covered by this contract are exempt under the laws of the country concerned or its political subdivisions or which the governments of the United States and of the country concerned have agreed shall not be applicable to expenditures in such country by or on behalf of the United States.

(j) The Contractor shall promptly notify the Contracting Officer of all matters relating to taxes or duties that reasonably may be expected to result in either an increase or decrease in the contract price and shall take appropriate action as the Contracting Officer directs. The contract price shall be equitably adjusted to cover the costs of action taken by the Contractor at the direction of the Contracting Officer, including any interest, penalty, and reasonable attorneys' fees.

(End of clause)

52.229-7 TAXES--FIXED-PRICE CONTRACTS WITH FOREIGN GOVERNMENTS (JAN 1991)

(a) "Contract date," as used in this clause, means the date set for bid opening or, if this is a negotiated contract or a

modification, the effective date of this contract or modification.

(b) The contract price, including the prices in any subcontracts under this contract, does not include any tax or duty that the Government of the United States and the Government of _____ have agreed shall not apply to expenditures made by the United States in _____ or any tax or duty not applicable to this contract or any subcontracts under this contract, pursuant to the laws of _____. If any such tax or duty has been included in the contract price, through error or otherwise, the contract price shall be correspondingly reduced.

(c) If, after the contract date, the Government of the United States and the Government of _____ agree that any tax or duty included in the contract price shall not apply to expenditures by the United States in _____, the contract price shall be reduced accordingly.

(d) No adjustment shall be made in the contract price under this clause unless the amount of the adjustment exceeds \$250.

TO BE DETERMINED AT TASK ORDER.

(End of clause)

52.230-1 COST ACCOUNTING STANDARDS NOTICES AND CERTIFICATION (OCT 2008)

Note: This notice does not apply to small businesses or foreign governments. This notice is in three parts, identified by Roman numerals I through III.

Offerors shall examine each part and provide the requested information in order to determine Cost Accounting Standards (CAS) requirements applicable to any resultant contract.

If the offeror is an educational institution, Part II does not apply unless the contemplated contract will be subject to full or modified CAS coverage pursuant to 48 CFR 9903.201-2(c)(5) or 9903.201-2(c)(6), respectively.

I. DISCLOSURE STATEMENT--COST ACCOUNTING PRACTICES AND CERTIFICATION

(a) Any contract in excess of \$650,000 resulting from this solicitation will be subject to the requirements of the Cost Accounting Standards Board (48 CFR Chapter 99), except for those contracts which are exempt as specified in 48 CFR 9903.201-1.

(b) Any offeror submitting a proposal which, if accepted, will result in a contract subject to the requirements of 48 CFR Chapter 99 must, as a condition of contracting, submit a Disclosure Statement as required by 48 CFR 9903.202. When required, the Disclosure Statement must be submitted as a part of the offeror's proposal under this solicitation unless the offeror has already submitted a Disclosure Statement disclosing the practices used in connection with the pricing of this proposal. If an applicable Disclosure Statement has already been submitted, the offeror may satisfy the requirement for submission by providing the information requested in paragraph (c) of Part I of this provision.

CAUTION: In the absence of specific regulations or agreement, a practice disclosed in a Disclosure Statement shall not, by virtue of such disclosure, be deemed to be a proper, approved, or agreed-to practice for pricing proposals or accumulating and reporting contract performance cost data.

(c) Check the appropriate box below:

(1) Certificate of Concurrent Submission of Disclosure Statement.

The offeror hereby certifies that, as a part of the offer, copies of the Disclosure Statement have been submitted as follows: (i) original and one copy to the cognizant Administrative Contracting Officer (ACO) or cognizant Federal agency official authorized to act in that capacity (Federal official), as applicable, and (ii) one copy to the cognizant Federal auditor.

(Disclosure must be on Form No. CASB DS-1 or CASB DS-2, as applicable. Forms may be obtained from the cognizant ACO or Federal official and/or from the loose-leaf version of the Federal Acquisition Regulation.)

Date of Disclosure Statement: _____ Name and Address of Cognizant ACO or Federal Official Where Filed: _____

The offeror further certifies that the practices used in estimating costs in pricing this proposal are consistent with the cost accounting practices disclosed in the Disclosure Statement.

(2) Certificate of Previously Submitted Disclosure Statement.

The offeror hereby certifies that the required Disclosure Statement was filed as follows:

Date of Disclosure Statement: _____ Name and Address of Cognizant ACO or Federal Official Where Filed: _____

The offeror further certifies that the practices used in estimating costs in pricing this proposal are consistent with the cost accounting practices disclosed in the applicable Disclosure Statement.

(3) Certificate of Monetary Exemption.

The offeror hereby certifies that the offeror, together with all divisions, subsidiaries, and affiliates under common control, did not receive net awards of negotiated prime contracts and subcontracts subject to CAS totaling more than \$50 million (of which at least one award exceeded \$1 million) in the cost accounting period immediately preceding the period in which this proposal was submitted. The offeror further certifies that if such status changes before an award resulting from this proposal, the offeror will advise the Contracting Officer immediately.

(4) Certificate of Interim Exemption.

The offeror hereby certifies that (i) the offeror first exceeded the monetary exemption for disclosure, as defined in (3) of this subsection, in the cost accounting period immediately preceding the period in which this offer was submitted and (ii) in accordance with 48 CFR 9903.202-1, the offeror is not yet required to submit a Disclosure Statement. The offeror further certifies that if an award resulting from this proposal has not been made within 90 days after the end of that period, the offeror will immediately submit a revised certificate to the Contracting Officer, in the form specified under subparagraph (c)(1) or (c)(2) of Part I of this provision, as appropriate, to verify submission of a completed Disclosure Statement.

CAUTION: Offerors currently required to disclose because they were awarded a CAS-covered prime contract or subcontract of \$50 million or more in the current cost accounting period may not claim this exemption (4). Further, the exemption applies only in connection with proposals submitted before expiration of the 90-day period following the cost accounting period in which the monetary exemption was exceeded.

II. COST ACCOUNTING STANDARDS--ELIGIBILITY FOR MODIFIED CONTRACT COVERAGE

If the offeror is eligible to use the modified provisions of 48 CFR 9903.201-2(b) and elects to do so, the offeror shall indicate by checking the box below. Checking the box below shall mean that the resultant contract is subject to the Disclosure and Consistency of Cost Accounting Practices clause in lieu of the Cost Accounting Standards clause.

() The offeror hereby claims an exemption from the Cost Accounting Standards clause under the provisions of 48 CFR 9903.201-2(b) and certifies that the offeror is eligible for use of the Disclosure and Consistency of Cost Accounting Practices clause because during the cost accounting period immediately preceding the period in which this proposal was submitted, the offeror received less than \$50 million in awards of CAS-covered prime contracts and subcontracts. The offeror further certifies that if such status changes before an award resulting from this proposal, the offeror will advise the Contracting Officer immediately.

CAUTION: An offeror may not claim the above eligibility for modified contract coverage if this proposal is expected to result in the award of a CAS-covered contract of \$50 million or more or if, during its current cost accounting period, the offeror has been awarded a single CAS-covered prime contract or subcontract of \$25 million or more.

III. ADDITIONAL COST ACCOUNTING STANDARDS APPLICABLE TO EXISTING CONTRACTS

The offeror shall indicate below whether award of the contemplated contract would, in accordance with subparagraph (a)(3) of the Cost Accounting Standards clause, require a change in established cost accounting practices affecting existing contracts and subcontracts.

() YES () NO

(End of clause)

52.230-2 COST ACCOUNTING STANDARDS (OCT 2008)

(a) Unless the contract is exempt under 48 CFR 9903.201-1 and 9903.201-2, the provisions of 48 CFR Part 9903 are incorporated herein by reference and the Contractor, in connection with this contract, shall--

(1) (CAS-covered Contracts Only) By submission of a Disclosure Statement, disclose in writing the Contractor's cost accounting practices as required by 48 CFR 9903.202-1 through 9903.202-5, including methods of distinguishing direct costs from indirect costs and the basis used for allocating indirect costs. The practices disclosed for this contract shall be the same as the practices currently disclosed and applied on all other contracts and subcontracts being performed by the Contractor and which contain a Cost Accounting Standards (CAS) clause. If the Contractor has notified the Contracting Officer that the Disclosure Statement contains trade secrets and commercial or financial information which is privileged and confidential, the Disclosure Statement shall be protected and shall not be released outside of the Government.

(2) Follow consistently the Contractor's cost accounting practices in accumulating and reporting contract performance cost data concerning this contract. If any change in cost accounting practices is made for the purposes of any contract or subcontract subject to CAS requirements, the change must be applied prospectively to this contract and the Disclosure Statement must be amended accordingly. If the contract price or cost allowance of this contract is affected by such changes, adjustment shall be made in accordance with subparagraph (a)(4) or (a)(5) of this clause, as appropriate.

(3) Comply with all CAS, including any modifications and interpretations indicated thereto contained in 48 CFR Part 9904, in effect on the date of award of this contract or, if the Contractor has submitted cost or pricing data, on the date of final agreement on price as shown on the Contractor's signed certificate of current cost or pricing data. The Contractor shall also comply with any CAS (or modifications to CAS) which hereafter become applicable to a contract or subcontract of the Contractor. Such compliance shall be required prospectively from the date of applicability to such contract or subcontract.

(4)(i) Agree to an equitable adjustment as provided in the Changes clause of this contract if the contract cost is affected by a change which, pursuant to subparagraph (a)(3) of this clause, the Contractor is required to make to the Contractor's established cost accounting practices.

(ii) Negotiate with the Contracting Officer to determine the terms and conditions under which a change may be made to a cost accounting practice, other than a change made under other provisions of subparagraph (a)(4) of this clause; provided that no agreement may be made under this provision that will increase costs paid by the United States.

(iii) When the parties agree to a change to a cost accounting practice, other than a change under subdivision (a)(4)(i) of this clause, negotiate an equitable adjustment as provided in the Changes clause of this contract.

(5) Agree to an adjustment of the contract price or cost allowance, as appropriate, if the Contractor or a subcontractor fails to comply with an applicable Cost Accounting Standard, or to follow any cost accounting practice consistently and such failure results in any increased costs paid by the United States. Such adjustment shall provide for recovery of the increased costs to the United States, together with interest thereon computed at the annual rate established under section 6621(a)(2) of the Internal Revenue Code of 1986 (26 U.S.C. 6621(a)(2)) for such period, from the time the payment by the United States was made to the time the adjustment is effected. In no case shall the Government recover costs greater than the increased cost to the Government, in the aggregate, on the relevant contracts subject to the price adjustment, unless the Contractor made a change in its cost accounting practices of which it was aware or should have been aware at the time of price negotiations and which it failed to disclose to the Government.

(b) If the parties fail to agree whether the Contractor or a subcontractor has complied with an applicable CAS in 48 CFR 9904 or a CAS rule or regulation in 48 CFR 9903 and as to any cost adjustment demanded by the United States, such failure to agree will constitute a dispute under the Contract Disputes Act (41 U.S.C. 601).

(c) The Contractor shall permit any authorized representatives of the Government to examine and make copies of any documents, papers, or records relating to compliance with the requirements of this clause.

(d) The Contractor shall include in all negotiated subcontracts which the Contractor enters into, the substance of this clause, except paragraph (b), and shall require such inclusion in all other subcontracts, of any tier, including the obligation to comply with all CAS in effect on the subcontractor's award date or if the subcontractor has submitted cost or pricing data, on the date of final agreement on price as shown on the subcontractor's signed Certificate of Current Cost or Pricing Data. If the subcontract is awarded to a business unit which pursuant to 48 CFR 9903.201-2 is subject to other types of CAS coverage, the substance of the applicable clause set forth in subsection 30.201-4 of the Federal Acquisition Regulation shall be inserted. This requirement shall apply only to negotiated subcontracts in excess of \$650,000, except that the requirement shall not apply to negotiated subcontracts otherwise exempt from the requirement to include a CAS clause as specified in 48 CFR 9903.201-1.

(End of clause)

52.230-3 DISCLOSURE AND CONSISTENCY OF COST ACCOUNTING PRACTICES (OCT 2008)

(a) The Contractor, in connection with this contract, shall--

(1) Comply with the requirements of 48 CFR 9904.401, Consistency in Estimating, Accumulating, and Reporting Costs; 48 CFR 9904.402, Consistency in Allocating Costs Incurred for the Same Purpose; 48 CFR 9904.405, Accounting for Unallowable Costs; and 48 CFR 9904.406, Cost Accounting Standard--Cost Accounting Period, in effect on the date of award of this contract as indicated in 48 CFR Part 9904.

(2) (CAS-covered Contracts Only) If it is a business unit of a company required to submit a Disclosure Statement, disclose in writing its cost accounting practices as required by 48 CFR 9903.202-1 through 9903.202-5. If the Contractor has notified the Contracting Officer that the Disclosure Statement contains trade secrets and commercial or financial information which is privileged and confidential, the Disclosure Statement shall be protected and shall not be released outside of the Government.

(3)(i) Follow consistently the Contractor's cost accounting practices. A change to such practices may be proposed, however, by either the Government or the Contractor, and the Contractor agrees to negotiate with the Contracting Officer the terms and conditions under which a change may be made. After the terms and conditions under which the change is to be made have been agreed to, the change must be applied prospectively to this contract, and the Disclosure Statement, if affected, must be amended accordingly.

(ii) The Contractor shall, when the parties agree to a change to a cost accounting practice and the Contracting Officer has made the finding required in 48 CFR 9903.201-6(c), that the change is desirable and not detrimental to the interests of the Government, negotiate an equitable adjustment as provided in the Changes clause of this contract. In the absence of the required finding, no agreement may be made under this contract clause that will increase costs paid by the United States.

(4) Agree to an adjustment of the contract price or cost allowance, as appropriate, if the Contractor or a subcontractor fails to comply with the applicable CAS or to follow any cost accounting practice, and such failure results in any increased costs paid by the United States. Such adjustment shall provide for recovery of the increased costs to the United States together with interest thereon computed at the annual rate established under section 6621(a)(2) of the Internal Revenue Code of 1986 (26 U.S.C. 6621(a)(2)), from the time the payment by the United States was made to the time the adjustment is effected.

(b) If the parties fail to agree whether the Contractor has complied with an applicable CAS, rule, or regulation as specified in 48 CFR 9903 and 9904 and as to any cost adjustment demanded by the United States, such failure to agree will constitute a dispute under the Contract Disputes Act (41 U.S.C. 601).

(c) The Contractor shall permit any authorized representatives of the Government to examine and make copies of any documents, papers, and records relating to compliance with the requirements of this clause.

(d) The Contractor shall include in all negotiated subcontracts, which the Contractor enters into, the substance of this clause, except paragraph (b), and shall require such inclusion in all other subcontracts of any tier, except that--

(1) If the subcontract is awarded to a business unit which pursuant to 48 CFR 9903.201-2 is subject to other types of CAS coverage, the substance of the applicable clause set forth in subsection 30.201-4 of the Federal Acquisition Regulation shall be inserted.

(2) This requirement shall apply only to negotiated subcontracts in excess of \$650,000.

(3) The requirement shall not apply to negotiated subcontracts otherwise exempt from the requirement to include a CAS clause as specified in 48 CFR 9903.201-1.

(End of clause)

52.230-6 ADMINISTRATION OF COST ACCOUNTING STANDARDS (MAR 2008)

For the purpose of administering the Cost Accounting Standards (CAS) requirements under this contract, the Contractor shall take the steps outlined in paragraphs (b) through (i) and (k) through (n) of this clause:

(a) Definitions. As used in this clause--

Affected CAS-covered contract or subcontract means a contract or subcontract subject to CAS rules and regulations for which a Contractor or subcontractor--

- (1) Used one cost accounting practice to estimate costs and a changed cost accounting practice to accumulate and report costs under the contract or subcontract; or
- (2) Used a noncompliant practice for purposes of estimating or accumulating and reporting costs under the contract or subcontract.

Cognizant Federal agency official (CFAO) means the Contracting Officer assigned by the cognizant Federal agency to administer the CAS.

Desirable change means a compliant change to a Contractor's established or disclosed cost accounting practices that the CFAO finds is desirable and not detrimental to the Government and is, therefore, not subject to the no increased cost prohibition provisions of CAS-covered contracts and subcontracts affected by the change.

Fixed-price contracts and subcontracts means--

- (1) Fixed-price contracts and subcontracts described at FAR 16.202, 16.203, (except when price adjustments are based on actual costs of labor or material, described at 16.203-1(a)(2)), and 16.207;
- (2) Fixed-price incentive contracts and subcontracts where the price is not adjusted based on actual costs incurred (FAR Subpart 16.4);
- (3) Orders issued under indefinite-delivery contracts and subcontracts where final payment is not based on actual costs incurred (FAR Subpart 16.5); and
- (4) The fixed-hourly rate portion of time-and-materials and labor-hours contracts and subcontracts (FAR Subpart 16.6).

Flexibly-priced contracts and subcontracts means--

- (1) Fixed-price contracts and subcontracts described at FAR 16.203-1(a)(2) 16.204, 16.205, and 16.206;
- (2) Cost-reimbursement contracts and subcontracts (FAR Subpart 16.3);
- (3) Incentive contracts and subcontracts where the price may be adjusted based on actual costs incurred (FAR Subpart 16.4);
- (4) Orders issued under indefinite-delivery contracts and subcontracts where final payment is based on actual costs incurred (FAR Subpart 16.5); and
- (5) The materials portion of time-and-materials contracts and subcontracts (FAR Subpart 16.6).

Noncompliance means a failure in estimating, accumulating, or reporting costs to--

- (1) Comply with applicable CAS; or
- (2) Consistently follow disclosed or established cost accounting practices.

Required change means--

(1) A change in cost accounting practice that a Contractor is required to make in order to comply with applicable Standards, modifications or interpretations thereto, that subsequently become applicable to existing CAS-covered contracts or subcontracts due to the receipt of another CAS-covered contract or subcontract; or

(2) A prospective change to a disclosed or established cost accounting practice when the CFAO determines that the former practice was in compliance with applicable CAS and the change is necessary for the Contractor to remain in compliance.

Unilateral change means a change in cost accounting practice from one compliant practice to another compliant practice that a Contractor with a CAS-covered contract(s) or subcontract(s) elects to make that has not been deemed a desirable change by the CFAO and for which the Government will pay no aggregate increased costs.

(b) Submit to the CFAO a description of any cost accounting practice change as outlined in paragraphs (b)(1) through (3) of this clause (including revisions to the Disclosure Statement, if applicable), and any written statement that the cost impact of the change is immaterial. If a change in cost accounting practice is implemented without submitting the notice required by this paragraph, the CFAO may determine the change to be a failure to follow paragraph (a)(2) of the clause at FAR 52.230-2, Cost Accounting Standards; paragraph (a)(4) of the clause at FAR 52.230-3, Disclosure and Consistency of Cost Accounting Practices; or paragraph (a)(2) of the clause at FAR 52.230-5, Cost Accounting Standards--Educational Institution.

(1) When a description has been submitted for a change in cost accounting practice that is dependent on a contract award and that contract is subsequently awarded, notify the CFAO within 15 days after such award.

(2) For any change in cost accounting practice not covered by (b)(1) of this clause that is required in accordance with paragraphs (a)(3) and (a)(4)(i) of the clause at FAR 52.230-2; or paragraphs (a)(3), (a)(4)(i), or (a)(4)(iv) of the clause at FAR 52.230-5; submit a description of the change to the CFAO not less than 60 days (or such other date as may be mutually agreed to by the CFAO and the Contractor) before implementation of the change.

(3) For any change in cost accounting practices proposed in accordance with paragraph (a)(4)(ii) or (iii) of the clauses at FAR 52.230-2 and FAR 52.230-5; or with paragraph (a)(3) of the clause at FAR 52.230-3, submit a description of the change not less than 60 days (or such other date as may be mutually agreed to by the CFAO and the Contractor) before implementation of the change. If the change includes a proposed retroactive date submit supporting rationale.

(4) Submit a description of the change necessary to correct a failure to comply with an applicable CAS or to follow a disclosed practice (as contemplated by paragraph (a)(5) of the clause at FAR 52.230-2 and FAR 52.230-5; or by paragraph (a)(4) of the clause at FAR 52.230-3)--

(i) Within 60 days (or such other date as may be mutually agreed to by the CFAO and the Contractor) after the date of agreement with the CFAO that there is a noncompliance; or

(ii) In the event of Contractor disagreement, within 60 days after the CFAO notifies the Contractor of the determination of noncompliance.

(c) When requested by the CFAO, submit on or before a date specified by the CFAO--

(1) A general dollar magnitude (GDM) proposal in accordance with paragraph (d) or (g) of this clause. The Contractor may submit a detailed cost-impact (DCI) proposal in lieu of the requested GDM proposal provided the DCI proposal is in accordance with paragraph (e) or (h) of this clause;

(2) A detailed cost-impact (DCI) proposal in accordance with paragraph (e) or (h) of this clause;

(3) For any request for a desirable change that is based on the criteria in FAR 30.603-2(b)(3)(ii), the data necessary to demonstrate the required cost savings; and

(4) For any request for a desirable change that is based on criteria other than that in FAR 30.603-2(b)(3)(ii), a GDM proposal and any other data necessary for the CFAO to determine if the change is a desirable change.

(d) For any change in cost accounting practice subject to paragraph (b)(1), (b)(2), or (b)(3) of this clause, the GDM proposal shall--

(1) Calculate the cost impact in accordance with paragraph (f) of this clause;

(2) Use one or more of the following methods to determine the increase or decrease in cost accumulations:

(i) A representative sample of affected CAS-covered contracts and subcontracts.

(ii) The change in indirect rates multiplied by the total estimated base computed for each of the following groups:

(A) Fixed-price contracts and subcontracts.

(B) Flexibly-priced contracts and subcontracts.

(iii) Any other method that provides a reasonable approximation of the total increase or decrease in cost accumulations for all affected fixed-price and flexibly-priced contracts and subcontracts;

(3) Use a format acceptable to the CFAO but, as a minimum, include the following data:

(i) The estimated increase or decrease in cost accumulations by Executive agency, including any impact the change may have on contract and subcontract incentives, fees, and profits, for each of the following groups:

(A) Fixed-price contracts and subcontracts.

(B) Flexibly-priced contracts and subcontracts.

(ii) For unilateral changes, the increased or decreased costs to the Government for each of the following groups:

(A) Fixed-price contracts and subcontracts.

(B) Flexibly-priced contracts and subcontracts; and

(4) When requested by the CFAO, identify all affected CAS-covered contracts and subcontracts.

(e) For any change in cost accounting practice subject to paragraph (b)(1), (b)(2), or (b)(3) of this clause, the DCI proposal shall--

(1) Show the calculation of the cost impact in accordance with paragraph (f) of this clause;

(2) Show the estimated increase or decrease in cost accumulations for each affected CAS-covered contract and subcontract unless the CFAO and Contractor agree to include--

(i) Only those affected CAS-covered contracts and subcontracts having an estimate to complete exceeding a specified amount; and

(ii) An estimate of the total increase or decrease in cost accumulations for all affected CAS-covered contracts and subcontracts, using the results in paragraph (e)(2)(i) of this clause;

(3) Use a format acceptable to the CFAO but, as a minimum, include the information in paragraph (d)(3) of this clause; and

(4) When requested by the CFAO, identify all affected CAS-covered contracts and subcontracts.

(f) For GDM and DCI proposals that are subject to the requirements of paragraph (d) or (e) of this clause, calculate the cost impact as follows:

(1) The cost impact calculation shall include all affected CAS-covered contracts and subcontracts regardless of their status (i.e., open or closed) or the fiscal year in which the costs were incurred (i.e., whether or not the final indirect rates have been established).

(2) For unilateral changes--

(i) Determine the increased or decreased cost to the Government for flexibly-priced contracts and subcontracts as follows:

(A) When the estimated cost to complete using the changed practice exceeds the estimated cost to complete using the current practice, the difference is increased cost to the Government.

(B) When the estimated cost to complete using the changed practice is less than the estimated cost to complete using the current practice, the difference is decreased cost to the Government;

(ii) Determine the increased or decreased cost to the Government for fixed-priced contracts and subcontracts as follows:

(A) When the estimated cost to complete using the changed practice is less than the estimated cost to complete using the current practice, the difference is increased cost to the Government.

(B) When the estimated cost to complete using the changed practice exceeds the estimated cost to complete using the current practice, the difference is decreased cost to the Government;

(iii) Calculate the total increase or decrease in contract and subcontract incentives, fees, and profits associated with the increased or decreased costs to the Government in accordance with 48 CFR 9903.306(c). The associated increase or decrease is based on the difference between the negotiated incentives, fees, and profits and the amounts that would have been negotiated had the cost impact been known at the time the contracts and subcontracts were negotiated; and

(iv) Calculate the increased cost to the Government in the aggregate.

(3) For equitable adjustments for required or desirable changes--

(i) Estimated increased cost accumulations are the basis for increasing contract prices, target prices and cost ceilings; and

(ii) Estimated decreased cost accumulations are the basis for decreasing contract prices, target prices and cost ceilings.

(g) For any noncompliant cost accounting practice subject to paragraph (b)(4) of this clause, prepare the GDM proposal as follows:

(1) Calculate the cost impact in accordance with paragraph (i) of this clause.

(2) Use one or more of the following methods to determine the increase or decrease in contract and subcontract prices or cost accumulations, as applicable:

- (i) A representative sample of affected CAS-covered contracts and subcontracts.
 - (ii) When the noncompliance involves cost accumulation the change in indirect rates multiplied by the applicable base for only flexibly-priced contracts and subcontracts.
 - (iii) Any other method that provides a reasonable approximation of the total increase or decrease.
- (3) Use a format acceptable to the CFAO but, as a minimum, include the following data:
- (i) The total increase or decrease in contract and subcontract price and cost accumulations, as applicable, by Executive agency, including any impact the noncompliance may have on contract and subcontract incentives, fees, and profits, for each of the following groups:
 - (A) Fixed-price contracts and subcontracts.
 - (B) Flexibly-priced contracts and subcontracts.
 - (ii) The increased or decreased cost to the Government for each of the following groups:
 - (A) Fixed-price contracts and subcontracts.
 - (B) Flexibly-priced contracts and subcontracts.
 - (iii) The total overpayments and underpayments made by the Government during the period of noncompliance.
- (4) When requested by the CFAO, identify all CAS-covered contracts and subcontracts.
- (h) For any noncompliant practice subject to paragraph (b)(4) of this clause, prepare the DCI proposal as follows:
- (1) Calculate the cost impact in accordance with paragraph (i) of this clause.
 - (2) Show the increase or decrease in price and cost accumulations for each affected CAS-covered contract and subcontract unless the CFAO and Contractor agree to--
 - (i) Include only those affected CAS-covered contracts and subcontracts having--
 - (A) Contract and subcontract values exceeding a specified amount when the noncompliance involves estimating costs; and
 - (B) Incurred costs exceeding a specified amount when the noncompliance involves accumulating costs; and
 - (ii) Estimate the total increase or decrease in price and cost accumulations for all affected CAS-covered contracts and subcontracts using the results in paragraph (h)(2)(i) of this clause.
 - (3) Use a format acceptable to the CFAO that, as a minimum, include the information in paragraph (g)(3) of this clause.
 - (4) When requested by the CFAO, identify all CAS-covered contracts and subcontracts.
 - (i) For GDM and DCI proposals that are subject to the requirements of paragraph (g) or (h) of this clause, calculate the cost impact as follows:

- (1) The cost impact calculation shall include all affected CAS-covered contracts and subcontracts regardless of their status (i.e., open or closed) or the fiscal year in which the costs are incurred (i.e., whether or not the final indirect rates have been established).
- (2) For noncompliances that involve estimating costs, determine the increased or decreased cost to the Government for fixed-price contracts and subcontracts as follows:
 - (i) When the negotiated contract or subcontract price exceeds what the negotiated price would have been had the Contractor used a compliant practice, the difference is increased cost to the Government.
 - (ii) When the negotiated contract or subcontract price is less than what the negotiated price would have been had the Contractor used a compliant practice, the difference is decreased cost to the Government.
- (3) For noncompliances that involve accumulating costs, determine the increased or decreased cost to the Government for flexibly-priced contracts and subcontracts as follows:
 - (i) When the costs that were accumulated under the noncompliant practice exceed the costs that would have been accumulated using a compliant practice (from the time the noncompliant practice was first implemented until the date the noncompliant practice was replaced with a compliant practice), the difference is increased cost to the Government.
 - (ii) When the costs that were accumulated under the noncompliant practice are less than the costs that would have been accumulated using a compliant practice (from the time the noncompliant practice was first implemented until the date the noncompliant practice was replaced with a compliant practice), the difference is decreased cost to the Government.
- (4) Calculate the total increase or decrease in contract and subcontracts incentives, fees, and profits associated with the increased or decreased cost to the Government in accordance with 48 CFR 9903.306(c). The associated increase or decrease is based on the difference between the negotiated incentives, fees, and profits and the amounts that would have been negotiated had the Contractor used a compliant practice.
- (5) Calculate the increased cost to the Government in the aggregate.
- (j) If the Contractor does not submit the information required by paragraph (b) or (c) of this clause within the specified time, or any extension granted by the CFAO, the CFAO may take one or both of the following actions:
 - (1) Withhold an amount not to exceed 10 percent of each subsequent amount payment to the Contractor's affected CAS-covered contracts, (up to the estimated general dollar magnitude of the cost impact), until such time as the Contractor provides the required information to the CFAO.
 - (2) Issue a final decision in accordance with FAR 33.211 and unilaterally adjust the contract(s) by the estimated amount of the cost impact.
- (k) Agree to--
 - (1) Contract modifications to reflect adjustments required in accordance with paragraph (a)(4)(ii) or (a)(5) of the clauses at FAR 52.230-2 and 52.230-5; or with paragraph (a)(3)(i) or (a)(4) of the clause at FAR 52.230-3; and
 - (2) Repay the Government for any aggregate increased cost paid to the Contractor.
- (l) For all subcontracts subject to the clauses at FAR 52.230-2, 52.230-3, or 52.230-5--
 - (1) So state in the body of the subcontract, in the letter of award, or in both (do not use self-deleting clauses);

- (2) Include the substance of this clause in all negotiated subcontracts; and
 - (3) Within 30 days after award of the subcontract, submit the following information to the Contractor's CFAO:
 - (i) Subcontractor's name and subcontract number.
 - (ii) Dollar amount and date of award.
 - (iii) Name of Contractor making the award.
 - (m) Notify the CFAO in writing of any adjustments required to subcontracts under this contract and agree to an adjustment to this contract price or estimated cost and fee. The Contractor shall--
 - (1) Provide this notice within 30 days after the Contractor receives the proposed subcontract adjustments; and
 - (2) Include a proposal for adjusting the higher-tier subcontract or the contract appropriately.
 - (n) For subcontracts containing the clause or substance of the clause at FAR 52.230-2, FAR 52.230-3, or FAR 52.230-5, require the subcontractor to comply with all Standards in effect on the date of award or of final agreement on price, as shown on the subcontractor's signed Certificate of Current Cost or Pricing Data, whichever is earlier.
- (End of clause)

52.231-5000 EQUIPMENT OWNERSHIP AND OPERATING EXPENSE SCHEDULE
MAR 1995)--EFARS

52.231-5000 EQUIPMENT OWNERSHIP AND OPERATING EXPENSE SCHEDULE
MAR 1995)--EFARS

- (a) This clause does not apply to terminations. See 52.249-5000, Basis for Settlement of Proposals and FAR Part 49.
- (b) Allowable cost for construction and marine plant and equipment in sound workable condition owned or controlled and furnished by a contractor or subcontractor at any tier shall be based on actual cost data for each piece of equipment or groups of similar serial and series for which the Government can determine both ownership and operating costs from the contractor's accounting records. When both ownership and operating costs cannot be determined for any piece of equipment or groups of similar serial or series equipment from the contractor's accounting records, costs for that equipment shall be based upon the applicable provisions of EP 1110-1-8, Construction Equipment Ownership and Operating Expense Schedule, Region _____. Working conditions shall be considered to be average for determining equipment rates using the schedule unless specified otherwise by the contracting officer. For equipment not included in the schedule, rates for comparable pieces of equipment may be used or a rate may be developed using the formula provided in the schedule. For forward pricing, the schedule in effect at the time of negotiations shall apply. For retroactive pricing, the schedule in effect at the time the work was performed shall apply.
- (c) Equipment rental costs are allowable, subject to the provisions of FAR 31.105(d)(ii) and FAR 31.205-36. Rates for equipment rented from an organization under common control, lease-purchase arrangements, and sale-leaseback arrangements, will be determined using the schedule, except that actual rates will be used for equipment leased from

an organization under common control that has an established practice of leasing the same or similar equipment to unaffiliated lessees.

(d) When actual equipment costs are proposed and the total amount of the pricing action exceeds the small purchase threshold, the contracting officer shall request the contractor to submit either certified cost or pricing data, or partial/limited data, as appropriate. The data shall be submitted on Standard Form 1411, Contract Pricing Proposal Cover Sheet.

(End of clause)

52.232-5 PAYMENTS UNDER FIXED-PRICE CONSTRUCTION CONTRACTS (SEP 2002)

(a) Payment of price. The Government shall pay the Contractor the contract price as provided in this contract.

(b) Progress payments. The Government shall make progress payments monthly as the work proceeds, or at more frequent intervals as determined by the Contracting Officer, on estimates of work accomplished which meets the standards of quality established under the contract, as approved by the Contracting Officer.

(1) The Contractor's request for progress payments shall include the following substantiation:

(i) An itemization of the amounts requested, related to the various elements of work required by the contract covered by the payment requested.

(ii) A listing of the amount included for work performed by each subcontractor under the contract.

(iii) A listing of the total amount of each subcontract under the contract.

(iv) A listing of the amounts previously paid to each such subcontractor under the contract.

(v) Additional supporting data in a form and detail required by the Contracting Officer.

(2) In the preparation of estimates, the Contracting Officer may authorize material delivered on the site and preparatory work done to be taken into consideration. Material delivered to the Contractor at locations other than the site also may be taken into consideration if--

(i) Consideration is specifically authorized by this contract; and

(ii) The Contractor furnishes satisfactory evidence that it has acquired title to such material and that the material will be used to perform this contract.

(c) Contractor certification. Along with each request for progress payments, the Contractor shall furnish the following certification, or payment shall not be made: (However, if the Contractor elects to delete paragraph (c)(4) from the certification, the certification is still acceptable.)

I hereby certify, to the best of my knowledge and belief, that--

(1) The amounts requested are only for performance in accordance with the specifications, terms, and conditions of the contract;

(2) All payments due to subcontractors and suppliers from previous payments received under the contract have been made, and timely payments will be made from the proceeds of the payment covered by this certification, in accordance with subcontract agreements and the requirements of chapter 39 of Title 31, United States Code;

(3) This request for progress payments does not include any amounts which the prime contractor intends to withhold or retain from a subcontractor or supplier in accordance with the terms and conditions of the subcontract; and

(4) This certification is not to be construed as final acceptance of a subcontractor's performance.

(Name)

(Title)

(Date)

(d) Refund of unearned amounts. If the Contractor, after making a certified request for progress payments, discovers that a portion or all of such request constitutes a payment for performance by the Contractor that fails to conform to the specifications, terms, and conditions of this contract (hereinafter referred to as the "unearned amount"), the Contractor shall--

(1) Notify the Contracting Officer of such performance deficiency; and

(2) Be obligated to pay the Government an amount (computed by the Contracting Officer in the manner provided in paragraph (j) of this clause) equal to interest on the unearned amount from the 8th day after the date of receipt of the unearned amount until--

(i) The date the Contractor notifies the Contracting Officer that the performance deficiency has been corrected; or

(ii) The date the Contractor reduces the amount of any subsequent certified request for progress payments by an amount equal to the unearned amount.

(e) Retainage. If the Contracting Officer finds that satisfactory progress was achieved during any period for which a progress payment is to be made, the Contracting Officer shall authorize payment to be made in full. However, if satisfactory progress has not been made, the Contracting Officer may retain a maximum of 10 percent of the amount of the payment until satisfactory progress is achieved. When the work is substantially complete, the Contracting Officer may retain from previously withheld funds and future progress payments that amount the Contracting Officer considers adequate for protection of the Government and shall release to the Contractor all the remaining withheld funds. Also, on completion and acceptance of each separate building, public work, or other division of the contract, for which the price is stated separately in the contract, payment shall be made for the completed work without retention of a percentage.

(f) Title, liability, and reservation of rights. All material and work covered by progress payments made shall, at the time of payment, become the sole property of the Government, but this shall not be construed as--

(1) Relieving the Contractor from the sole responsibility for all material and work upon which payments have been made or the restoration of any damaged work; or

(2) Waiving the right of the Government to require the fulfillment of all of the terms of the contract.

(g) Reimbursement for bond premiums. In making these progress payments, the Government shall, upon request, reimburse the Contractor for the amount of premiums paid for performance and payment bonds (including coinsurance and reinsurance agreements, when applicable) after the Contractor has furnished evidence of full

payment to the surety. The retainage provisions in paragraph (e) of this clause shall not apply to that portion of progress payments attributable to bond premiums.

(h) Final payment. The Government shall pay the amount due the Contractor under this contract after--

(1) Completion and acceptance of all work;

(2) Presentation of a properly executed voucher; and

(3) Presentation of release of all claims against the Government arising by virtue of this contract, other than claims, in stated amounts, that the Contractor has specifically excepted from the operation of the release. A release may also be required of the assignee if the Contractor's claim to amounts payable under this contract has been assigned under the Assignment of Claims Act of 1940 (31 U.S.C. 3727 and 41 U.S.C. 15).

(i) Limitation because of undefinitized work. Notwithstanding any provision of this contract, progress payments shall not exceed 80 percent on work accomplished on undefinitized contract actions. A "contract action" is any action resulting in a contract, as defined in FAR Subpart 2.1, including contract modifications for additional supplies or services, but not including contract modifications that are within the scope and under the terms of the contract, such as contract modifications issued pursuant to the Changes clause, or funding and other administrative changes.

(j) Interest computation on unearned amounts. In accordance with 31 U.S.C. 3903(c)(1), the amount payable under subparagraph (d)(2) of this clause shall be--

(1) Computed at the rate of average bond equivalent rates of 91-day Treasury bills auctioned at the most recent auction of such bills prior to the date the Contractor receives the unearned amount; and

(2) Deducted from the next available payment to the Contractor.

(End of clause)

CLAUSES INCORPORATED BY FULL TEXT

52.232-17 INTEREST (OCT 2008)

(a) Except as otherwise provided in this contract under a Price Reduction for Defective Cost or Pricing Data clause or a Cost Accounting Standards clause, all amounts that become payable by the Contractor to the Government under this contract shall bear simple interest from the date due until paid unless paid within 30 days of becoming due. The interest rate shall be the interest rate established by the Secretary of the Treasury as provided in Section 611 of the Contract Disputes Act of 1978 (Public Law 95-563), which is applicable to the period in which the amount becomes due, as provided in paragraph (e) of this clause, and then at the rate applicable for each six-month period as fixed by the Secretary until the amount is paid.

(b) The Government may issue a demand for payment to the Contractor upon finding a debt is due under the contract.

(c) Final Decisions. The Contracting Officer will issue a final decision as required by 33.211 if--

(1) The Contracting Officer and the Contractor are unable to reach agreement on the existence or amount of a debt in a timely manner;

(2) The Contractor fails to liquidate a debt previously demanded by the Contracting Officer within the timeline specified in the demand for payment unless the amounts were not repaid because the Contractor has requested an installment payment agreement; or

(3) The Contractor requests a deferment of collection on a debt previously demanded by the Contracting Officer (see 32.607-2).

(d) If a demand for payment was previously issued for the debt, the demand for payment included in the final decision shall identify the same due date as the original demand for payment.

(e) Amounts shall be due at the earliest of the following dates:

(1) The date fixed under this contract.

(2) The date of the first written demand for payment, including any demand for payment resulting from a default termination.

(f) The interest charge shall be computed for the actual number of calendar days involved beginning on the due date and ending on--

(1) The date on which the designated office receives payment from the Contractor;

(2) The date of issuance of a Government check to the Contractor from which an amount otherwise payable has been withheld as a credit against the contract debt; or

(3) The date on which an amount withheld and applied to the contract debt would otherwise have become payable to the Contractor.

(g) The interest charge made under this clause may be reduced under the procedures prescribed in 32.608-2 of the Federal Acquisition Regulation in effect on the date of this contract.

(End of clause)

52.232-18 AVAILABILITY OF FUNDS (APR 1984)

Funds are not presently available for this contract. The Government's obligation under this contract is contingent upon the availability of appropriated funds from which payment for contract purposes can be made. No legal liability on the part of the Government for any payment may arise until funds are made available to the Contracting Officer for this contract and until the Contractor receives notice of such availability, to be confirmed in writing by the Contracting Officer.

(End of clause)

52.232-19 AVAILABILITY OF FUNDS FOR THE NEXT FISCAL YEAR (APR 1984)

Funds are not presently available for performance under this contract beyond SEPTEMBER 30, 2011. The Government's obligation for performance of this contract beyond that date is contingent upon the availability of appropriated funds from which payment for contract purposes can be made. No legal liability on the part of the

Government for any payment may arise for performance under this contract beyond SEPTEMBER 30, 2011, until funds are made available to the Contracting Officer for performance and until the Contractor receives notice of availability, to be confirmed in writing by the Contracting Officer.

(End of clause)

52.232-23 ASSIGNMENT OF CLAIMS (JAN 1986)

(a) The Contractor, under the Assignment of Claims Act, as amended, 31 U.S.C. 3727, 41 U.S.C. 15 (hereafter referred to as "the Act"), may assign its rights to be paid amounts due or to become due as a result of the performance of this contract to a bank, trust company, or other financing institution, including any Federal lending agency. The assignee under such an assignment may thereafter further assign or reassign its right under the original assignment to any type of financing institution described in the preceding sentence.

(b) Any assignment or reassignment authorized under the Act and this clause shall cover all unpaid amounts payable under this contract, and shall not be made to more than one party, except that an assignment or reassignment may be made to one party as agent or trustee for two or more parties participating in the financing of this contract.

(c) The Contractor shall not furnish or disclose to any assignee under this contract any classified document (including this contract) or information related to work under this contract until the Contracting Officer authorizes such action in writing.

(End of clause)

52.232-25 PROMPT PAYMENT (OCT 2008)

Notwithstanding any other payment clause in this contract, the Government will make invoice payments under the terms and conditions specified in this clause. The Government considers payment as being made on the day a check is dated or the date of an electronic funds transfer (EFT). Definitions of pertinent terms are set forth in sections 2.101, 32.001, and 32.902 of the Federal Acquisition Regulation. All days referred to in this clause are calendar days, unless otherwise specified. (However, see paragraph (a)(4) of this clause concerning payments due on Saturdays, Sundays, and legal holidays.)

(a) Invoice payments--(1) Due date. (i) Except as indicated in paragraphs (a)(2) and (c) of this clause, the due date for making invoice payments by the designated payment office is the later of the following two events:

(A) The 30th day after the designated billing office receives a proper invoice from the Contractor (except as provided in paragraph (a)(1)(ii) of this clause).

(B) The 30th day after Government acceptance of supplies delivered or services performed. For a final invoice, when the payment amount is subject to contract settlement actions, acceptance is deemed to occur on the effective date of the contract settlement.

(ii) If the designated billing office fails to annotate the invoice with the actual date of receipt at the time of receipt, the invoice payment due date is the 30th day after the date of the Contractor's invoice, provided the designated billing office receives a proper invoice and there is no disagreement over quantity, quality, or Contractor compliance with contract requirements.

(2) Certain food products and other payments. (i) Due dates on Contractor invoices for meat, meat food products, or fish; perishable agricultural commodities; and dairy products, edible fats or oils, and food products prepared from edible fats or oils are--

(A) For meat or meat food products, as defined in section 2(a)(3) of the Packers and Stockyard Act of 1921 (7 U.S.C. 182(3)), and as further defined in Pub. L. 98-181, including any edible fresh or frozen poultry meat, any perishable poultry meat food product, fresh eggs, and any perishable egg product, as close as possible to, but not later than, the 7th day after product delivery.

(B) For fresh or frozen fish, as defined in section 204(3) of the Fish and Seafood Promotion Act of 1986 (16 U.S.C. 4003(3)), as close as possible to, but not later than, the 7th day after product delivery.

(C) For perishable agricultural commodities, as defined in section 1(4) of the Perishable Agricultural Commodities Act of 1930 (7 U.S.C. 499a(4)), as close as possible to, but not later than, the 10th day after product delivery, unless another date is specified in the contract.

(D) For dairy products, as defined in section 111(e) of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4502(e)), edible fats or oils, and food products prepared from edible fats or oils, as close as possible to, but not later than, the 10th day after the date on which a proper invoice has been received. Liquid milk, cheese, certain processed cheese products, butter, yogurt, ice cream, mayonnaise, salad dressings, and other similar products, fall within this classification. Nothing in the Act limits this classification to refrigerated products. When questions arise regarding the proper classification of a specific product, prevailing industry practices will be followed in specifying a contract payment due date. The burden of proof that a classification of a specific product is, in fact, prevailing industry practice is upon the Contractor making the representation.

(ii) If the contract does not require submission of an invoice for payment (e.g., periodic lease payments), the due date will be as specified in the contract.

(3) Contractor's invoice. The Contractor shall prepare and submit invoices to the designated billing office specified in the contract. A proper invoice must include the items listed in paragraphs (a)(3)(i) through (a)(3)(x) of this clause. If the invoice does not comply with these requirements, the designated billing office will return it within 7 days after receipt (3 days for meat, meat food products, or fish; 5 days for perishable agricultural commodities, dairy products, edible fats or oils, and food products prepared from edible fats or oils), with the reasons why it is not a proper invoice. The Government will take into account untimely notification when computing any interest penalty owed the Contractor.

(i) Name and address of the Contractor.

(ii) Invoice date and invoice number. (The Contractor should date invoices as close as possible to the date of the mailing or transmission.)

(iii) Contract number or other authorization for supplies delivered or services performed (including order number and contract line item number).

(iv) Description, quantity, unit of measure, unit price, and extended price of supplies delivered or services performed.

(v) Shipping and payment terms (e.g., shipment number and date of shipment, discount for prompt payment terms). Bill of lading number and weight of shipment will be shown for shipments on Government bills of lading.

(vi) Name and address of Contractor official to whom payment is to be sent (must be the same as that in the contract or in a proper notice of assignment).

(vii) Name (where practicable), title, phone number, and mailing address of person to notify in the event of a defective invoice.

(viii) Taxpayer Identification Number (TIN). The Contractor shall include its TIN on the invoice only if required elsewhere in this contract.

(ix) Electronic funds transfer (EFT) banking information.

(A) The Contractor shall include EFT banking information on the invoice only if required elsewhere in this contract.

(B) If EFT banking information is not required to be on the invoice, in order for the invoice to be a proper invoice, the Contractor shall have submitted correct EFT banking information in accordance with the applicable solicitation provision (e.g., 52.232-38, Submission of Electronic Funds Transfer Information with Offer), contract clause (e.g., 52.232-33, Payment by Electronic Funds Transfer--Central Contractor Registration, or 52.232-34, Payment by Electronic Funds Transfer--Other Than Central Contractor Registration), or applicable agency procedures.

(C) EFT banking information is not required if the Government waived the requirement to pay by EFT.

(x) Any other information or documentation required by the contract (e.g., evidence of shipment).

(4) Interest penalty. The designated payment office will pay an interest penalty automatically, without request from the Contractor, if payment is not made by the due date and the conditions listed in paragraphs (a)(4)(i) through (a)(4)(iii) of this clause are met, if applicable. However, when the due date falls on a Saturday, Sunday, or legal holiday, the designated payment office may make payment on the following working day without incurring a late payment interest penalty.

(i) The designated billing office received a proper invoice.

(ii) The Government processed a receiving report or other Government documentation authorizing payment, and there was no disagreement over quantity, quality, or Contractor compliance with any contract term or condition.

(iii) In the case of a final invoice for any balance of funds due the Contractor for supplies delivered or services performed, the amount was not subject to further contract settlement actions between the Government and the Contractor.

(5) Computing penalty amount. The Government will compute the interest penalty in accordance with the Office of Management and Budget prompt payment regulations at 5 CFR part 1315.

(i) For the sole purpose of computing an interest penalty that might be due the Contractor, Government acceptance is deemed to occur constructively on the 7th day (unless otherwise specified in this contract) after the Contractor delivers the supplies or performs the services in accordance with the terms and conditions of the contract, unless there is a disagreement over quantity, quality, or Contractor compliance with a contract provision. If actual acceptance occurs within the constructive acceptance period, the Government will base the determination of an interest penalty on the actual date of acceptance. The constructive acceptance requirement does not, however, compel Government officials to accept supplies or services, perform contract administration functions, or make payment prior to fulfilling their responsibilities.

(ii) The prompt payment regulations at 5 CFR 1315.10(c) do not require the Government to pay interest penalties if payment delays are due to disagreement between the Government and the Contractor over the payment amount or other issues involving contract compliance, or on amounts temporarily withheld or retained in accordance with the terms of the contract. The Government and the Contractor shall resolve claims involving disputes and any interest that may be payable in accordance with the clause at FAR 52.233-1, Disputes.

(6) Discounts for prompt payment. The designated payment office will pay an interest penalty automatically, without request from the Contractor, if the Government takes a discount for prompt payment improperly. The Government will calculate the interest penalty in accordance with the prompt payment regulations at 5 CFR part 1315.

(7) Additional interest penalty. (i) The designated payment office will pay a penalty amount, calculated in accordance with the prompt payment regulations at 5 CFR part 1315 in addition to the interest penalty amount only if--

(A) The Government owes an interest penalty of \$1 or more;

(B) The designated payment office does not pay the interest penalty within 10 days after the date the invoice amount is paid; and

(C) The Contractor makes a written demand to the designated payment office for additional penalty payment, in accordance with paragraph (a)(7)(ii) of this clause, postmarked not later than 40 days after the invoice amount is paid.

(ii)(A) The Contractor shall support written demands for additional penalty payments with the following data. The Government will not request any additional data. The Contractor shall--

(1) Specifically assert that late payment interest is due under a specific invoice, and request payment of all overdue late payment interest penalty and such additional penalty as may be required;

(2) Attach a copy of the invoice on which the unpaid late payment interest is due; and

(3) State that payment of the principal has been received, including the date of receipt.

(B) If there is no postmark or the postmark is illegible--

(1) The designated payment office that receives the demand will annotate it with the date of receipt, provided the demand is received on or before the 40th day after payment was made; or

(2) If the designated payment office fails to make the required annotation, the Government will determine the demand's validity based on the date the Contractor has placed on the demand, provided such date is no later than the 40th day after payment was made.

(iii) The additional penalty does not apply to payments regulated by other Government regulations (e.g., payments under utility contracts subject to tariffs and regulation).

(b) Contract financing payment. If this contract provides for contract financing, the Government will make contract financing payments in accordance with the applicable contract financing clause.

(c) Fast payment procedure due dates. If this contract contains the clause at 52.213-1, Fast Payment Procedure, payments will be made within 15 days after the date of receipt of the invoice.

(d) Overpayments. If the Contractor becomes aware of a duplicate contract financing or invoice payment or that the Government has otherwise overpaid on a contract financing or invoice payment, the Contractor shall--

(1) Remit the overpayment amount to the payment office cited in the contract along with a description of the overpayment including the--

(i) Circumstances of the overpayment (e.g., duplicate payment, erroneous payment, liquidation errors, date(s) of overpayment);

- (ii) Affected contract number and delivery order number if applicable;
 - (iii) Affected contract line item or subline item, if applicable; and
 - (iv) Contractor point of contact.
- (2) Provide a copy of the remittance and supporting documentation to the Contracting Officer.
- (End of clause)

52.232-27 PROMPT PAYMENT FOR CONSTRUCTION CONTRACTS (OCT 2008)

Notwithstanding any other payment terms in this contract, the Government will make invoice payments under the terms and conditions specified in this clause. The Government considers payment as being made on the day a check is dated or the date of an electronic funds transfer. Definitions of pertinent terms are set forth in sections 2.101, 32.001, and 32.902 of the Federal Acquisition Regulation. All days referred to in this clause are calendar days, unless otherwise specified. (However, see paragraph (a)(3) concerning payments due on Saturdays, Sundays, and legal holidays.)

(a) Invoice payments--(1) Types of invoice payments. For purposes of this clause, there are several types of invoice payments that may occur under this contract, as follows:

(i) Progress payments, if provided for elsewhere in this contract, based on Contracting Officer approval of the estimated amount and value of work or services performed, including payments for reaching milestones in any project.

(A) The due date for making such payments is 14 days after the designated billing office receives a proper payment request. If the designated billing office fails to annotate the payment request with the actual date of receipt at the time of receipt, the payment due date is the 14th day after the date of the Contractor's payment request, provided the designated billing office receives a proper payment request and there is no disagreement over quantity, quality, or Contractor compliance with contract requirements.

(B) The due date for payment of any amounts retained by the Contracting Officer in accordance with the clause at 52.232-5, Payments Under Fixed-Price Construction Contracts, is as specified in the contract or, if not specified, 30 days after approval by the Contracting Officer for release to the Contractor.

(ii) Final payments based on completion and acceptance of all work and presentation of release of all claims against the Government arising by virtue of the contract, and payments for partial deliveries that have been accepted by the Government (e.g., each separate building, public work, or other division of the contract for which the price is stated separately in the contract).

(A) The due date for making such payments is the later of the following two events:

(1) The 30th day after the designated billing office receives a proper invoice from the Contractor.

(2) The 30th day after Government acceptance of the work or services completed by the Contractor. For a final invoice when the payment amount is subject to contract settlement actions (e.g., release of claims), acceptance is deemed to occur on the effective date of the contract settlement.

(B) If the designated billing office fails to annotate the invoice with the date of actual receipt at the time of receipt, the invoice payment due date is the 30th day after the date of the Contractor's invoice, provided the designated billing office receives a proper invoice and there is no disagreement over quantity, quality, or Contractor compliance with contract requirements.

(2) Contractor's invoice. The Contractor shall prepare and submit invoices to the designated billing office specified in the contract. A proper invoice must include the items listed in paragraphs (a)(2)(i) through (a)(2)(xi) of this clause. If the invoice does not comply with these requirements, the designated billing office must return it within 7 days after receipt, with the reasons why it is not a proper invoice. When computing any interest penalty owed the Contractor, the Government will take into account if the Government notifies the Contractor of an improper invoice in an untimely manner.

(i) Name and address of the Contractor.

(ii) Invoice date and invoice number. (The Contractor should date invoices as close as possible to the date of mailing or transmission.)

(iii) Contract number or other authorization for work or services performed (including order number and contract line item number).

(iv) Description of work or services performed.

(v) Delivery and payment terms (e.g., discount for prompt payment terms).

(vi) Name and address of Contractor official to whom payment is to be sent (must be the same as that in the contract or in a proper notice of assignment).

(vii) Name (where practicable), title, phone number, and mailing address of person to notify in the event of a defective invoice.

(viii) For payments described in paragraph (a)(1)(i) of this clause, substantiation of the amounts requested and certification in accordance with the requirements of the clause at 52.232-5, Payments Under Fixed-Price Construction Contracts.

(ix) Taxpayer Identification Number (TIN). The Contractor shall include its TIN on the invoice only if required elsewhere in this contract.

(x) Electronic funds transfer (EFT) banking information.

(A) The Contractor shall include EFT banking information on the invoice only if required elsewhere in this contract.

(B) If EFT banking information is not required to be on the invoice, in order for the invoice to be a proper invoice, the Contractor shall have submitted correct EFT banking information in accordance with the applicable solicitation provision (e.g., 52.232-38, Submission of Electronic Funds Transfer Information with Offer), contract clause (e.g., 52.232-33, Payment by Electronic Funds Transfer--Central Contractor Registration, or 52.232-34, Payment by Electronic Funds Transfer--Other Than Central Contractor Registration), or applicable agency procedures.

(C) EFT banking information is not required if the Government waived the requirement to pay by EFT.

(xi) Any other information or documentation required by the contract.

(3) Interest penalty. The designated payment office will pay an interest penalty automatically, without request from the Contractor, if payment is not made by the due date and the conditions listed in paragraphs (a)(3)(i) through (a)(3)(iii) of this clause are met, if applicable. However, when the due date falls on a Saturday, Sunday, or legal

holiday, the designated payment office may make payment on the following working day without incurring a late payment interest penalty.

(i) The designated billing office received a proper invoice.

(ii) The Government processed a receiving report or other Government documentation authorizing payment and there was no disagreement over quantity, quality, Contractor compliance with any contract term or condition, or requested progress payment amount.

(iii) In the case of a final invoice for any balance of funds due the Contractor for work or services performed, the amount was not subject to further contract settlement actions between the Government and the Contractor.

(4) Computing penalty amount. The Government will compute the interest penalty in accordance with the Office of Management and Budget prompt payment regulations at 5 CFR part 1315.

(i) For the sole purpose of computing an interest penalty that might be due the Contractor for payments described in paragraph (a)(1)(ii) of this clause, Government acceptance or approval is deemed to occur constructively on the 7th day after the Contractor has completed the work or services in accordance with the terms and conditions of the contract. If actual acceptance or approval occurs within the constructive acceptance or approval period, the Government will base the determination of an interest penalty on the actual date of acceptance or approval. Constructive acceptance or constructive approval requirements do not apply if there is a disagreement over quantity, quality, or Contractor compliance with a contract provision. These requirements also do not compel Government officials to accept work or services, approve Contractor estimates, perform contract administration functions, or make payment prior to fulfilling their responsibilities.

(ii) The prompt payment regulations at 5 CFR 1315.10(c) do not require the Government to pay interest penalties if payment delays are due to disagreement between the Government and the Contractor over the payment amount or other issues involving contract compliance, or on amounts temporarily withheld or retained in accordance with the terms of the contract. The Government and the Contractor shall resolve claims involving disputes, and any interest that may be payable in accordance with the clause at FAR 52.233-1, Disputes.

(5) Discounts for prompt payment. The designated payment office will pay an interest penalty automatically, without request from the Contractor, if the Government takes a discount for prompt payment improperly. The Government will calculate the interest penalty in accordance with the prompt payment regulations at 5 CFR part 1315.

(6) Additional interest penalty. (i) The designated payment office will pay a penalty amount, calculated in accordance with the prompt payment regulations at 5 CFR part 1315 in addition to the interest penalty amount only if--

(A) The Government owes an interest penalty of \$1 or more;

(B) The designated payment office does not pay the interest penalty within 10 days after the date the invoice amount is paid; and

(C) The Contractor makes a written demand to the designated payment office for additional penalty payment, in accordance with paragraph (a)(6)(ii) of this clause, postmarked not later than 40 days after the date the invoice amount is paid.

(ii)(A) The Contractor shall support written demands for additional penalty payments with the following data. The Government will not request any additional data. The Contractor shall--

(1) Specifically assert that late payment interest is due under a specific invoice, and request payment of all overdue late payment interest penalty and such additional penalty as may be required;

(2) Attach a copy of the invoice on which the unpaid late payment interest was due; and

(3) State that payment of the principal has been received, including the date of receipt.

(B) If there is no postmark or the postmark is illegible--

(1) The designated payment office that receives the demand will annotate it with the date of receipt provided the demand is received on or before the 40th day after payment was made; or

(2) If the designated payment office fails to make the required annotation, the Government will determine the demand's validity based on the date the Contractor has placed on the demand, provided such date is no later than the 40th day after payment was made.

(b) Contract financing payments. If this contract provides for contract financing, the Government will make contract financing payments in accordance with the applicable contract financing clause.

(c) Subcontract clause requirements. The Contractor shall include in each subcontract for property or services (including a material supplier) for the purpose of performing this contract the following:

(1) Prompt payment for subcontractors. A payment clause that obligates the Contractor to pay the subcontractor for satisfactory performance under its subcontract not later than 7 days from receipt of payment out of such amounts as are paid to the Contractor under this contract.

(2) Interest for subcontractors. An interest penalty clause that obligates the Contractor to pay to the subcontractor an interest penalty for each payment not made in accordance with the payment clause--

(i) For the period beginning on the day after the required payment date and ending on the date on which payment of the amount due is made; and

(ii) Computed at the rate of interest established by the Secretary of the Treasury, and published in the Federal Register, for interest payments under section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611) in effect at the time the Contractor accrues the obligation to pay an interest penalty.

(3) Subcontractor clause flowdown. A clause requiring each subcontractor to use:

(i) Include a payment clause and an interest penalty clause conforming to the standards set forth in paragraphs (c)(1) and (c)(2) of this clause in each of its subcontracts; and

(ii) Require each of its subcontractors to include such clauses in their subcontracts with each lower-tier subcontractor or supplier.

(d) Subcontract clause interpretation. The clauses required by paragraph (c) of this clause shall not be construed to impair the right of the Contractor or a subcontractor at any tier to negotiate, and to include in their subcontract, provisions that--

(1) Retainage permitted. Permit the Contractor or a subcontractor to retain (without cause) a specified percentage of each progress payment otherwise due to a subcontractor for satisfactory performance under the subcontract without incurring any obligation to pay a late payment interest penalty, in accordance with terms and conditions agreed to by the parties to the subcontract, giving such recognition as the parties deem appropriate to the ability of a subcontractor to furnish a performance bond and a payment bond;

(2) Withholding permitted. Permit the Contractor or subcontractor to make a determination that part or all of the subcontractor's request for payment may be withheld in accordance with the subcontract agreement; and

(3) Withholding requirements. Permit such withholding without incurring any obligation to pay a late payment penalty if--

(i) A notice conforming to the standards of paragraph (g) of this clause previously has been furnished to the subcontractor; and

(ii) The Contractor furnishes to the Contracting Officer a copy of any notice issued by a Contractor pursuant to paragraph (d)(3)(i) of this clause.

(e) Subcontractor withholding procedures. If a Contractor, after making a request for payment to the Government but before making a payment to a subcontractor for the subcontractor's performance covered by the payment request, discovers that all or a portion of the payment otherwise due such subcontractor is subject to withholding from the subcontractor in accordance with the subcontract agreement, then the Contractor shall--

(1) Subcontractor notice. Furnish to the subcontractor a notice conforming to the standards of paragraph (g) of this clause as soon as practicable upon ascertaining the cause giving rise to a withholding, but prior to the due date for subcontractor payment;

(2) Contracting Officer notice. Furnish to the Contracting Officer, as soon as practicable, a copy of the notice furnished to the subcontractor pursuant to paragraph (e)(1) of this clause;

(3) Subcontractor progress payment reduction. Reduce the subcontractor's progress payment by an amount not to exceed the amount specified in the notice of withholding furnished under paragraph (e)(1) of this clause;

(4) Subsequent subcontractor payment. Pay the subcontractor as soon as practicable after the correction of the identified subcontract performance deficiency, and--

(i) Make such payment within--

(A) Seven days after correction of the identified subcontract performance deficiency (unless the funds therefor must be recovered from the Government because of a reduction under paragraph

(e)(5)(i)) of this clause; or

(B) Seven days after the Contractor recovers such funds from the Government; or

(ii) Incur an obligation to pay a late payment interest penalty computed at the rate of interest established by the Secretary of the Treasury, and published in the Federal Register, for interest payments under section 12 of the Contracts Disputes Act of 1978 (41 U.S.C. 611) in effect at the time the Contractor accrues the obligation to pay an interest penalty;

(5) Notice to Contracting Officer. Notify the Contracting Officer upon--

(i) Reduction of the amount of any subsequent certified application for payment; or

(ii) Payment to the subcontractor of any withheld amounts of a progress payment, specifying--

(A) The amounts withheld under paragraph (e)(1) of this clause; and

(B) The dates that such withholding began and ended; and

(6) Interest to Government. Be obligated to pay to the Government an amount equal to interest on the withheld payments (computed in the manner provided in 31 U.S.C. 3903(c)(1)), from the 8th day after receipt of the withheld amounts from the Government until--

(i) The day the identified subcontractor performance deficiency is corrected; or

(ii) The date that any subsequent payment is reduced under paragraph (e)(5)(i) of this clause.

(f) Third-party deficiency reports—

(1) Withholding from subcontractor. If a Contractor, after making payment to a first-tier subcontractor, receives from a supplier or subcontractor of the first-tier subcontractor (hereafter referred to as a “second-tier subcontractor”) a written notice in accordance with the Miller Act (40 U.S.C. 3133), asserting a deficiency in such first-tier subcontractor's performance under the contract for which the Contractor may be ultimately liable, and the Contractor determines that all or a portion of future payments otherwise due such first-tier subcontractor is subject to withholding in accordance with the subcontract agreement, the Contractor may, without incurring an obligation to pay an interest penalty under paragraph (e)(6) of this clause--

(i) Furnish to the first-tier subcontractor a notice conforming to the standards of paragraph (g) of this clause as soon as practicable upon making such determination; and

(ii) Withhold from the first-tier subcontractor's next available progress payment or payments an amount not to exceed the amount specified in the notice of withholding furnished under paragraph (f)(1)(i) of this clause.

(2) Subsequent payment or interest charge. As soon as practicable, but not later than 7 days after receipt of satisfactory written notification that the identified subcontract performance deficiency has been corrected, the Contractor shall--

(i) Pay the amount withheld under paragraph (f)(1)(ii) of this clause to such first-tier subcontractor; or

(ii) Incur an obligation to pay a late payment interest penalty to such first-tier subcontractor computed at the rate of interest established by the Secretary of the Treasury, and published in the Federal Register, for interest payments under section 12 of the Contracts Disputes Act of 1978 (41 U.S.C. 611) in effect at the time the Contractor accrues the obligation to pay an interest penalty.

(g) Written notice of subcontractor withholding. The Contractor shall issue a written notice of any withholding to a subcontractor (with a copy furnished to the Contracting Officer), specifying--

(1) The amount to be withheld;

(2) The specific causes for the withholding under the terms of the subcontract; and

(3) The remedial actions to be taken by the subcontractor in order to receive payment of the amounts withheld.

(h) Subcontractor payment entitlement. The Contractor may not request payment from the Government of any amount withheld or retained in accordance with paragraph (d) of this clause until such time as the Contractor has determined and certified to the Contracting Officer that the subcontractor is entitled to the payment of such amount.

(i) Prime-subcontractor disputes. A dispute between the Contractor and subcontractor relating to the amount or entitlement of a subcontractor to a payment or a late payment interest penalty under a clause included in the subcontract pursuant to paragraph (c) of this clause does not constitute a dispute to which the Government is a party. The Government may not be interpleaded in any judicial or administrative proceeding involving such a dispute.

(j) Preservation of prime-subcontractor rights. Except as provided in paragraph (i) of this clause, this clause shall not limit or impair any contractual, administrative, or judicial remedies otherwise available to the Contractor or a subcontractor in the event of a dispute involving late payment or nonpayment by the Contractor or deficient subcontract performance or nonperformance by a subcontractor.

(k) Non-recourse for prime contractor interest penalty. The Contractor's obligation to pay an interest penalty to a subcontractor pursuant to the clauses included in a subcontract under paragraph (c) of this clause shall not be construed to be an obligation of the Government for such interest penalty. A cost-reimbursement claim may not include any amount for reimbursement of such interest penalty.

(l) Overpayments. If the Contractor becomes aware of a duplicate contract financing or invoice payment or that the Government has otherwise overpaid on a contract financing or invoice payment, the Contractor shall--

(1) Remit the overpayment amount to the payment office cited in the contract along with a description of the overpayment including the--

(i) Circumstances of the overpayment (e.g., duplicate payment, erroneous payment, liquidation errors, date(s) of overpayment);

(ii) Affected contract number and delivery order number if applicable;

(iii) Affected contract line item or subline item, if applicable; and

(iv) Contractor point of contact.

(2) Provide a copy of the remittance and supporting documentation to the Contracting Officer.

(End of clause)

52.232-33 PAYMENT BY ELECTRONIC FUNDS TRANSFER—CENTRAL CONTRACTOR REGISTRATION (OCT 2003)

(a) Method of payment. (1) All payments by the Government under this contract shall be made by electronic funds transfer (EFT), except as provided in paragraph (a)(2) of this clause. As used in this clause, the term "EFT" refers to the funds transfer and may also include the payment information transfer.

(2) In the event the Government is unable to release one or more payments by EFT, the Contractor agrees to either--

(i) Accept payment by check or some other mutually agreeable method of payment; or

(ii) Request the Government to extend the payment due date until such time as the Government can make payment by EFT (but see paragraph (d) of this clause).

(b) Contractor's EFT information. The Government shall make payment to the Contractor using the EFT information contained in the Central Contractor Registration (CCR) database. In the event that the EFT information changes, the Contractor shall be responsible for providing the updated information to the CCR database.

(c) Mechanisms for EFT payment. The Government may make payment by EFT through either the Automated Clearing House (ACH) network, subject to the rules of the National Automated Clearing House Association, or the Fedwire Transfer System. The rules governing Federal payments through the ACH are contained in 31 CFR part 210.

(d) Suspension of payment. If the Contractor's EFT information in the CCR database is incorrect, then the Government need not make payment to the Contractor under this contract until correct EFT information is entered into the CCR database; and any invoice or contract financing request shall be deemed not to be a proper invoice for

the purpose of prompt payment under this contract. The prompt payment terms of the contract regarding notice of an improper invoice and delays in accrual of interest penalties apply.

(e) Liability for uncompleted or erroneous transfers. (1) If an uncompleted or erroneous transfer occurs because the Government used the Contractor's EFT information incorrectly, the Government remains responsible for--

(i) Making a correct payment;

(ii) Paying any prompt payment penalty due; and

(iii) Recovering any erroneously directed funds.

(2) If an uncompleted or erroneous transfer occurs because the Contractor's EFT information was incorrect, or was revised within 30 days of Government release of the EFT payment transaction instruction to the Federal Reserve System, and--

(i) If the funds are no longer under the control of the payment office, the Government is deemed to have made payment and the Contractor is responsible for recovery of any erroneously directed funds; or

(ii) If the funds remain under the control of the payment office, the Government shall not make payment, and the provisions of paragraph (d) of this clause shall apply.

(f) EFT and prompt payment. A payment shall be deemed to have been made in a timely manner in accordance with the prompt payment terms of this contract if, in the EFT payment transaction instruction released to the Federal Reserve System, the date specified for settlement of the payment is on or before the prompt payment due date, provided the specified payment date is a valid date under the rules of the Federal Reserve System.

(g) EFT and assignment of claims. If the Contractor assigns the proceeds of this contract as provided for in the assignment of claims terms of this contract, the Contractor shall require as a condition of any such assignment, that the assignee shall register separately in the CCR database and shall be paid by EFT in accordance with the terms of this clause. Notwithstanding any other requirement of this contract, payment to an ultimate recipient other than the Contractor, or a financial institution properly recognized under an assignment of claims pursuant to subpart 32.8, is not permitted. In all respects, the requirements of this clause shall apply to the assignee as if it were the Contractor. EFT information that shows the ultimate recipient of the transfer to be other than the Contractor, in the absence of a proper assignment of claims acceptable to the Government, is incorrect EFT information within the meaning of paragraph (d) of this clause.

(h) Liability for change of EFT information by financial agent. The Government is not liable for errors resulting from changes to EFT information made by the Contractor's financial agent.

(i) Payment information. The payment or disbursing office shall forward to the Contractor available payment information that is suitable for transmission as of the date of release of the EFT instruction to the Federal Reserve System. The Government may request the Contractor to designate a desired format and method(s) for delivery of payment information from a list of formats and methods the payment office is capable of executing. However, the Government does not guarantee that any particular format or method of delivery is available at any particular payment office and retains the latitude to use the format and delivery method most convenient to the Government. If the Government makes payment by check in accordance with paragraph (a) of this clause, the Government shall mail the payment information to the remittance address contained in the CCR database.

(End of Clause)

52.233-1 DISPUTES. (JUL 2002)

- (a) This contract is subject to the Contract Disputes Act of 1978, as amended (41 U.S.C. 601-613).
- (b) Except as provided in the Act, all disputes arising under or relating to this contract shall be resolved under this clause.
- (c) Claim, as used in this clause, means a written demand or written assertion by one of the contracting parties seeking, as a matter of right, the payment of money in a sum certain, the adjustment or interpretation of contract terms, or other relief arising under or relating to this contract. However, a written demand or written assertion by the Contractor seeking the payment of money exceeding \$100,000 is not a claim under the Act until certified. A voucher, invoice, or other routine request for payment that is not in dispute when submitted is not a claim under the Act. The submission may be converted to a claim under the Act, by complying with the submission and certification requirements of this clause, if it is disputed either as to liability or amount or is not acted upon in a reasonable time.
- (d)(1) A claim by the Contractor shall be made in writing and, unless otherwise stated in this contract, submitted within 6 years after accrual of the claim to the Contracting Officer for a written decision. A claim by the Government against the Contractor shall be subject to a written decision by the Contracting Officer.
- (2)(i) The contractors shall provide the certification specified in subparagraph (d)(2)(iii) of this clause when submitting any claim exceeding \$100,000.
- (ii) The certification requirement does not apply to issues in controversy that have not been submitted as all or part of a claim.
- (iii) The certification shall state as follows: "I certify that the claim is made in good faith; that the supporting data are accurate and complete to the best of my knowledge and belief; that the amount requested accurately reflects the contract adjustment for which the Contractor believes the Government is liable; and that I am duly authorized to certify the claim on behalf of the Contractor.
- (3) The certification may be executed by any person duly authorized to bind the Contractor with respect to the claim.
- (e) For Contractor claims of \$100,000 or less, the Contracting Officer must, if requested in writing by the Contractor, render a decision within 60 days of the request. For Contractor-certified claims over \$100,000, the Contracting Officer must, within 60 days, decide the claim or notify the Contractor of the date by which the decision will be made.
- (f) The Contracting Officer's decision shall be final unless the Contractor appeals or files a suit as provided in the Act.
- (g) If the claim by the Contractor is submitted to the Contracting Officer or a claim by the Government is presented to the Contractor, the parties, by mutual consent, may agree to use alternative dispute resolution (ADR). If the Contractor refuses an offer for ADR, the Contractor shall inform the Contracting Officer, in writing, of the Contractor's specific reasons for rejecting the request.
- (h) The Government shall pay interest on the amount found due and unpaid from (1) the date the Contracting Officer receives the claim (certified, if required); or (2) the date that payment otherwise would be due, if that date is later, until the date of payment. With regard to claims having defective certifications, as defined in (FAR) 48 CFR 33.201, interest shall be paid from the date that the Contracting Officer initially receives the claim. Simple interest on claims shall be paid at the rate, fixed by the Secretary of the Treasury as provided in the Act, which is applicable to the period during which the Contracting Officer receives the claim and then at the rate applicable for each 6-month period as fixed by the Treasury Secretary during the pendency of the claim.
- (i) The Contractor shall proceed diligently with performance of this contract, pending final resolution of any request

for relief, claim, appeal, or action arising under the contract, and comply with any decision of the Contracting Officer.

(End of clause)

52.233-3 PROTEST AFTER AWARD (AUG. 1996)

(a) Upon receipt of a notice of protest (as defined in FAR 33.101) or a determination that a protest is likely (see FAR 33.102(d)), the Contracting Officer may, by written order to the Contractor, direct the Contractor to stop performance of the work called for by this contract. The order shall be specifically identified as a stop-work order issued under this clause. Upon receipt of the order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage. Upon receipt of the final decision in the protest, the Contracting Officer shall either--

(1) Cancel the stop-work order; or

(2) Terminate the work covered by the order as provided in the Default, or the Termination for Convenience of the Government, clause of this contract.

(b) If a stop-work order issued under this clause is canceled either before or after a final decision in the protest, the Contractor shall resume work. The Contracting Officer shall make an equitable adjustment in the delivery schedule or contract price, or both, and the contract shall be modified, in writing, accordingly, if--

(1) The stop-work order results in an increase in the time required for, or in the Contractor's cost properly allocable to, the performance of any part of this contract; and

(2) The Contractor asserts its right to an adjustment within 30 days after the end of the period of work stoppage; provided, that if the Contracting Officer decides the facts justify the action, the Contracting Officer may receive and act upon a proposal at any time before final payment under this contract.

(c) If a stop-work order is not canceled and the work covered by the order is terminated for the convenience of the Government, the Contracting Officer shall allow reasonable costs resulting from the stop-work order in arriving at the termination settlement.

(d) If a stop-work order is not canceled and the work covered by the order is terminated for default, the Contracting Officer shall allow, by equitable adjustment or otherwise, reasonable costs resulting from the stop-work order.

(e) The Government's rights to terminate this contract at any time are not affected by action taken under this clause.

(f) If, as the result of the Contractor's intentional or negligent misstatement, misrepresentation, or miscertification, a protest related to this contract is sustained, and the Government pays costs, as provided in FAR 33.102(b)(2) or 33.104(h)(1), the Government may require the Contractor to reimburse the Government the amount of such costs. In addition to any other remedy available, and pursuant to the requirements of Subpart 32.6, the Government may collect this debt by offsetting the amount against any payment due the Contractor under any contract between the Contractor and the Government.

(End of clause)

52.233-4 APPLICABLE LAW FOR BREACH OF CONTRACT CLAIM (OCT 2004)

United States law will apply to resolve any claim of breach of this contract.

(End of clause)

52.236-1 PERFORMANCE OF WORK BY THE CONTRACTOR (APR 1984)

The Contractor shall perform on the site, and with its own organization, work equivalent to at least **Twenty (20)** percent of the total amount of work to be performed under the contract. This percentage may be reduced by a supplemental agreement to this contract if, during performing the work, the Contractor requests a reduction and the Contracting Officer determines that the reduction would be to the advantage of the Government.

(End of clause)

52.236-2 DIFFERING SITE CONDITIONS (APR 1984)

(a) The Contractor shall promptly, and before the conditions are disturbed, give a written notice to the Contracting Officer of

- (1) subsurface or latent physical conditions at the site which differ materially from those indicated in this contract, or
- (2) unknown physical conditions at the site, of an unusual nature, which differ materially from those ordinarily encountered and generally recognized as inhering in work of the character provided for in the contract.

(b) The Contracting Officer shall investigate the site conditions promptly after receiving the notice. If the conditions do materially so differ and cause an increase or decrease in the Contractor's cost of, or the time required for, performing any part of the work under this contract, whether or not changed as a result of the conditions, an equitable adjustment shall be made under this clause and the contract modified in writing accordingly.

(c) No request by the Contractor for an equitable adjustment to the contract under this clause shall be allowed, unless the Contractor has given the written notice required; provided, that the time prescribed in (a) above for giving written notice may be extended by the Contracting Officer.

(d) No request by the Contractor for an equitable adjustment to the contract for differing site conditions shall be allowed if made after final payment under this contract.

(End of clause)

52.236-3 SITE INVESTIGATION AND CONDITIONS AFFECTING THE WORK (APR 1984)

(a) The Contractor acknowledges that it has taken steps reasonably necessary to ascertain the nature and location of the work, and that it has investigated and satisfied itself as to the general and local conditions which can affect the work or its cost, including but not limited to

- (1) conditions bearing upon transportation, disposal, handling, and storage of materials;

(2) the availability of labor, water, electric power, and roads;

(3) uncertainties of weather, river stages, tides, or similar physical conditions at the site;

(4) the conformation and conditions of the ground; and (5) the character of equipment and facilities needed preliminary to and during work performance. The Contractor also acknowledges that it has satisfied itself as to the character, quality, and quantity of surface and subsurface materials or obstacles to be encountered insofar as this information is reasonably ascertainable from an inspection of the site, including all exploratory work done by the Government, as well as from the drawings and specifications made a part of this contract. Any failure of the Contractor to take the actions described and acknowledged in this paragraph will not relieve the Contractor from responsibility for estimating properly the difficulty and cost of successfully performing the work, or for proceeding to successfully perform the work without additional expense to the Government.

(b) The Government assumes no responsibility for any conclusions or interpretations made by the Contractor based on the information made available by the Government. Nor does the Government assume responsibility for any understanding reached or representation made concerning conditions which can affect the work by any of its officers or agents before the execution of this contract, unless that understanding or representation is expressly stated in this contract.

(End of clause)

52.236-4 PHYSICAL DATA (APR 1984)

Data and information furnished or referred to below is for the Contractor's information. The Government shall not be responsible for any interpretation of or conclusion drawn from the data or information by the Contractor.

(a) The indications of physical conditions on the drawings and in the specifications are the result of site investigations by [insert a description of investigational methods used, such as surveys, auger borings, core borings, test pits, probings, test tunnels].

(b) Weather conditions (insert a summary of weather records and warnings).

(c) Transportation facilities (insert a summary of transportation facilities providing access from the site, including information about their availability and limitations).

(d) (insert other pertinent information).

(End of clause)

52.236-5 MATERIAL AND WORKMANSHIP (APR 1984)

(a) All equipment, material, and articles incorporated into the work covered by this contract shall be new and of the most suitable grade for the purpose intended, unless otherwise specifically provided in this contract. References in the specifications to equipment, material, articles, or patented processes by trade name, make, or catalog number, shall be regarded as establishing a standard of quality and shall not be construed as limiting competition. The Contractor may, at its option, use any equipment, material, article, or process that, in the judgment of the Contracting Officer, is equal to that named in the specifications, unless otherwise specifically provided in this contract.

(b) The Contractor shall obtain the Contracting Officer's approval of the machinery and mechanical and other equipment to be incorporated into the work. When requesting approval, the Contractor shall furnish to the Contracting Officer the name of the manufacturer, the model number, and other information concerning the performance, capacity, nature, and rating of the machinery and mechanical and other equipment. When required by this contract or by the Contracting Officer, the Contractor shall also obtain the Contracting Officer's approval of the material or articles which the Contractor contemplates incorporating into the work. When requesting approval, the Contractor shall provide full information concerning the material or articles. When directed to do so, the Contractor shall submit samples for approval at the Contractor's expense, with all shipping charges prepaid. Machinery, equipment, material, and articles that do not have the required approval shall be installed or used at the risk of subsequent rejection.

(c) All work under this contract shall be performed in a skillful and workmanlike manner. The Contracting Officer may require, in writing, that the Contractor remove from the work any employee the Contracting Officer deems incompetent, careless, or otherwise objectionable.

(End of clause)

52.236-6 SUPERINTENDENCE BY THE CONTRACTOR (APR 1984)

At all times during performance of this contract and until the work is completed and accepted, the Contractor shall directly superintend the work or assign and have on the worksite a competent superintendent who is satisfactory to the Contracting Officer and has authority to act for the Contractor.

(End of clause)

52.236-7 PERMITS AND RESPONSIBILITIES (NOV 1991)

The Contractor shall, without additional expense to the Government, be responsible for obtaining any necessary licenses and permits, and for complying with any Federal, State, and municipal laws, codes, and regulations applicable to the performance of the work. The Contractor shall also be responsible for all damages to persons or property that occur as a result of the Contractor's fault or negligence. The Contractor shall also be responsible for all materials delivered and work performed until completion and acceptance of the entire work, except for any completed unit of work which may have been accepted under the contract.

(End of clause)

52.236-8 OTHER CONTRACTS (APR 1984)

The Government may undertake or award other contracts for additional work at or near the site of the work under this contract. The Contractor shall fully cooperate with the other contractors and with Government employees and shall carefully adapt scheduling and performing the work under this contract to accommodate the additional work, heeding any direction that may be provided by the Contracting Officer. The Contractor shall not commit or permit any act that will interfere with the performance of work by any other contractor or by Government employees.

(End of clause)

52.236-9 PROTECTION OF EXISTING VEGETATION, STRUCTURES, EQUIPMENT, UTILITIES, AND IMPROVEMENTS (APR 1984)

(a) The Contractor shall preserve and protect all structures, equipment, and vegetation (such as trees, shrubs, and grass) on or adjacent to the work site, which are not to be removed and which do not unreasonably interfere with the work required under this contract. The Contractor shall only remove trees when specifically authorized to do so, and shall avoid damaging vegetation that will remain in place. If any limbs or branches of trees are broken during contract performance, or by the careless operation of equipment, or by workmen, the Contractor shall trim those limbs or branches with a clean cut and paint the cut with a tree-pruning compound as directed by the Contracting Officer.

(b) The Contractor shall protect from damage all existing improvements and utilities

(1) at or near the work site, and

(2) on adjacent property of a third party, the locations of which are made known to or should be known by the Contractor. The Contractor shall repair any damage to those facilities, including those that are the property of a third party, resulting from failure to comply with the requirements of this contract or failure to exercise reasonable care in performing the work. If the Contractor fails or refuses to repair the damage promptly, the Contracting Officer may have the necessary work performed and charge the cost to the Contractor.

(End of clause)

52.236-10 OPERATIONS AND STORAGE AREAS (APR 1984)

(a) The Contractor shall confine all operations (including storage of materials) on Government premises to areas authorized or approved by the Contracting Officer. The Contractor shall hold and save the Government, its officers and agents, free and harmless from liability of any nature occasioned by the Contractor's performance.

(b) Temporary buildings (e.g., storage sheds, shops, offices) and utilities may be erected by the Contractor only with the approval of the Contracting Officer and shall be built with labor and materials furnished by the Contractor without expense to the Government. The temporary buildings and utilities shall remain the property of the Contractor and shall be removed by the Contractor at its expense upon completion of the work. With the written consent of the Contracting Officer, the buildings and utilities may be abandoned and need not be removed.

(c) The Contractor shall, under regulations prescribed by the Contracting Officer, use only established roadways, or use temporary roadways constructed by the Contractor when and as authorized by the Contracting Officer. When materials are transported in prosecuting the work, vehicles shall not be loaded beyond the loading capacity recommended by the manufacturer of the vehicle or prescribed by any Federal, State, or local law or regulation. When it is necessary to cross curbs or sidewalks, the Contractor shall protect them from damage. The Contractor shall repair or pay for the repair of any damaged curbs, sidewalks, or roads.

(End of clause)

52.236-11 USE AND POSSESSION PRIOR TO COMPLETION (APR 1984)

(a) The Government shall have the right to take possession of or use any completed or partially completed part of the work. Before taking possession of or using any work, the Contracting Officer shall furnish the Contractor a list of items of work remaining to be performed or corrected on those portions of the work that the Government intends to take possession of or use. However, failure of the Contracting Officer to list any item of work shall not relieve the Contractor of responsibility for complying with the terms of the contract. The Government's possession or use shall not be deemed an acceptance of any work under the contract.

(b) While the Government has such possession or use, the Contractor shall be relieved of the responsibility for the loss of or damage to the work resulting from the Government's possession or use, notwithstanding the terms of the clause in this contract entitled "Permits and Responsibilities." If prior possession or use by the Government delays the progress of the work or causes additional expense to the Contractor, an equitable adjustment shall be made in the contract price or the time of completion, and the contract shall be modified in writing accordingly.

(End of clause)

CLAUSES INCORPORATED BY FULL TEXT

52.236-12 CLEANING UP (APR 1984)

The Contractor shall at all times keep the work area, including storage areas, free from accumulations of waste materials. Before completing the work, the Contractor shall remove from the work and premises any rubbish, tools, scaffolding, equipment, and materials that are not the property of the Government. Upon completing the work, the Contractor shall leave the work area in a clean, neat, and orderly condition satisfactory to the Contracting Officer.

(End of clause)

CLAUSES INCORPORATED BY FULL TEXT

52.236-13 ACCIDENT PREVENTION (NOV 1991)

(a) The Contractor shall provide and maintain work environments and procedures which will

(1) safeguard the public and Government personnel, property, materials, supplies, and equipment exposed to Contractor operations and activities;

(2) avoid interruptions of Government operations and delays in project completion dates; and

(3) control costs in the performance of this contract.

(b) For these purposes on contracts for construction or dismantling, demolition, or removal of improvements, the Contractor shall-

(1) Provide appropriate safety barricades, signs, and signal lights;

(2) Comply with the standards issued by the Secretary of Labor at 29 CFR Part 1926 and 29 CFR Part 1910; and

(3) Ensure that any additional measures the Contracting Officer determines to be reasonably necessary for the

purposes are taken.

(c) If this contract is for construction or dismantling, demolition or removal of improvements with any Department of Defense agency or component, the Contractor shall comply with all pertinent provisions of the latest version of U.S. Army Corps of Engineers Safety and Health Requirements Manual, EM 385-1-1, in effect on the date of the solicitation.

(d) Whenever the Contracting Officer becomes aware of any noncompliance with these requirements or any condition which poses a serious or imminent danger to the health or safety of the public or Government personnel, the Contracting Officer shall notify the Contractor orally, with written confirmation, and request immediate initiation of corrective action. This notice, when delivered to the Contractor or the Contractor's representative at the work site, shall be deemed sufficient notice of the noncompliance and that corrective action is required. After receiving the notice, the Contractor shall immediately take corrective action. If the Contractor fails or refuses to promptly take corrective action, the Contracting Officer may issue an order stopping all or part of the work until satisfactory corrective action has been taken. The Contractor shall not be entitled to any equitable adjustment of the contract price or extension of the performance schedule on any stop work order issued under this clause.

(e) The Contractor shall insert this clause, including this paragraph (e), with appropriate changes in the designation of the parties, in subcontracts.

(End of clause)

CLAUSES INCORPORATED BY FULL TEXT

52.236-14 AVAILABILITY AND USE OF UTILITY SERVICES (APR 1984)

(a) The Government shall make all reasonably required amounts of utilities available to the Contractor from existing outlets and supplies, as specified in the contract. Unless otherwise provided in the contract, the amount of each utility service consumed shall be charged to or paid for by the Contractor at prevailing rates charged to the Government or, where the utility is produced by the Government, at reasonable rates determined by the Contracting Officer. The Contractor shall carefully conserve any utilities furnished without charge.

(b) The Contractor, at its expense and in a workmanlike manner satisfactory to the Contracting Officer, shall install and maintain all necessary temporary connections and distribution lines, and all meters required to measure the amount of each utility used for the purpose of determining charges. Before final acceptance of the work by the Government, the Contractor shall remove all the temporary connections, distribution lines, meters, and associated paraphernalia.

(End of clause)

CLAUSES INCORPORATED BY FULL TEXT

52.236-15 SCHEDULES FOR CONSTRUCTION CONTRACTS (APR 1984)

(a) The Contractor shall, within five days after the work commences on the contract or another period of time determined by the Contracting Officer, prepare and submit to the Contracting Officer for approval three copies of a practicable schedule showing the order in which the Contractor proposes to perform the work, and the dates on which the Contractor contemplates starting and completing the several salient features of the work (including

acquiring materials, plant, and equipment). The schedule shall be in the form of a progress chart of suitable scale to indicate appropriately the percentage of work scheduled for completion by any given date during the period. If the Contractor fails to submit a schedule within the time prescribed, the Contracting Officer may withhold approval of progress payments until the Contractor submits the required schedule.

(b) The Contractor shall enter the actual progress on the chart as directed by the Contracting Officer, and upon doing so shall immediately deliver three copies of the annotated schedule to the Contracting Officer. If, in the opinion of the Contracting Officer, the Contractor falls behind the approved schedule, the Contractor shall take steps necessary to improve its progress, including those that may be required by the Contracting Officer, without additional cost to the Government. In this circumstance, the Contracting Officer may require the Contractor to increase the number of shifts, overtime operations, days of work, and/or the amount of construction plant, and to submit for approval any supplementary schedule or schedules in chart form as the Contracting Officer deems necessary to demonstrate how the approved rate of progress will be regained.

(c) Failure of the Contractor to comply with the requirements of the Contracting Officer under this clause shall be grounds for a determination by the Contracting Officer that the Contractor is not prosecuting the work with sufficient diligence to ensure completion within the time specified in the contract. Upon making this determination, the Contracting Officer may terminate the Contractor's right to proceed with the work, or any separable part of it, in accordance with the default terms of this contract.

(End of clause)

CLAUSES INCORPORATED BY FULL TEXT

52.236-17 LAYOUT OF WORK (APR 1984)

The Contractor shall lay out its work from Government established base lines and bench marks indicated on the drawings, and shall be responsible for all measurements in connection with the layout. The Contractor shall furnish, at its own expense, all stakes, templates, platforms, equipment, tools, materials, and labor required to lay out any part of the work. The Contractor shall be responsible for executing the work to the lines and grades that may be established or indicated by the Contracting Officer. The Contractor shall also be responsible for maintaining and preserving all stakes and other marks established by the Contracting Officer until authorized to remove them. If such marks are destroyed by the Contractor or through its negligence before their removal is authorized, the Contracting Officer may replace them and deduct the expense of the replacement from any amounts due or to become due to the Contractor.

(End of clause)

CLAUSES INCORPORATED BY FULL TEXT

52.236-19 ORGANIZATION AND DIRECTION OF THE WORK (APR 1984)

(a) When this contract is executed, the Contractor shall submit to the Contracting Officer a chart showing the general executive and administrative organization, the personnel to be employed in connection with the work under this contract, and their respective duties. The Contractor shall keep the data furnished current by supplementing it as additional information becomes available.

(b) Work performance under this contract shall be under the full-time resident direction of (1) the Contractor, if the

Contractor is an individual; (2) one or more principal partners, if the Contractor is a partnership; or (3) one or more senior officers, if Contractor is a corporation, association, or similar legal entity. However, if the Contracting Officer approves, the Contractor may be represented in the direction of the work by a specific person or persons holding positions other than those identified in this paragraph.

(End of clause)

CLAUSES INCORPORATED BY FULL TEXT

52.236-21 SPECIFICATIONS AND DRAWINGS FOR CONSTRUCTION (FEB 1997)

(a) The Contractor shall keep on the work site a copy of the drawings and specifications and shall at all times give the Contracting Officer access thereto. Anything mentioned in the specifications and not shown on the drawings, or shown on the drawings and not mentioned in the specifications, shall be of like effect as if shown or mentioned in both. In case of difference between drawings and specifications, the specifications shall govern. In case of discrepancy in the figures, in the drawings, or in the specifications, the matter shall be promptly submitted to the Contracting Officer, who shall promptly make a determination in writing. Any adjustment by the Contractor without such a determination shall be at its own risk and expense. The Contracting Officer shall furnish from time to time such detailed drawings and other information as considered necessary, unless otherwise provided.

(b) Wherever in the specifications or upon the drawings the words "directed", "required", "ordered", "designated", "prescribed", or words of like import are used, it shall be understood that the "direction", "requirement", "order", "designation", or "prescription", of the Contracting Officer is intended and similarly the words "approved", "acceptable", "satisfactory", or words of like import shall mean "approved by," or "acceptable to", or "satisfactory to" the Contracting Officer, unless otherwise expressly stated.

(c) Where "as shown," "as indicated", "as detailed", or words of similar import are used, it shall be understood that the reference is made to the drawings accompanying this contract unless stated otherwise. The word "provided" as used herein shall be understood to mean "provide complete in place," that is "furnished and installed".

(d) Shop drawings means drawings, submitted to the Government by the Contractor, subcontractor, or any lower tier subcontractor pursuant to a construction contract, showing in detail (1) the proposed fabrication and assembly of structural elements, and (2) the installation (i.e., fit, and attachment details) of materials or equipment. It includes drawings, diagrams, layouts, schematics, descriptive literature, illustrations, schedules, performance and test data, and similar materials furnished by the contractor to explain in detail specific portions of the work required by the contract. The Government may duplicate, use, and disclose in any manner and for any purpose shop drawings delivered under this contract.

(e) If this contract requires shop drawings, the Contractor shall coordinate all such drawings, and review them for accuracy, completeness, and compliance with contract requirements and shall indicate its approval thereon as evidence of such coordination and review. Shop drawings submitted to the Contracting Officer without evidence of the Contractor's approval may be returned for resubmission. The Contracting Officer will indicate an approval or disapproval of the shop drawings and if not approved as submitted shall indicate the Government's reasons therefor. Any work done before such approval shall be at the Contractor's risk. Approval by the Contracting Officer shall not relieve the Contractor from responsibility for any errors or omissions in such drawings, nor from responsibility for complying with the requirements of this contract, except with respect to variations described and approved in accordance with (f) below.

(f) If shop drawings show variations from the contract requirements, the Contractor shall describe such variations in writing, separate from the drawings, at the time of submission. If the Contracting Officer approves any such variation, the Contracting Officer shall issue an appropriate contract modification, except that, if the variation is

minor or does not involve a change in price or in time of performance, a modification need not be issued.

(g) The Contractor shall submit to the Contracting Officer for approval four copies (unless otherwise indicated) of all shop drawings as called for under the various headings of these specifications. Three sets (unless otherwise indicated) of all shop drawings, will be retained by the Contracting Officer and one set will be returned to the Contractor.

(End of clause)

CLAUSES INCORPORATED BY FULL TEXT

52.236-22 DESIGN WITHIN FUNDING LIMITATIONS (APR 1984)

(a) The Contractor shall accomplish the design services required under this contract so as to permit the award of a contract, using standard Federal Acquisition Regulation procedures for the construction of the facilities designed at a price that does not exceed the estimated construction contract price as set forth in paragraph (c) below. When bids or proposals for the construction contract are received that exceed the estimated price, the contractor shall perform such redesign and other services as are necessary to permit contract award within the funding limitation. These additional services shall be performed at no increase in the price of this contract. However, the Contractor shall not be required to perform such additional services at no cost to the Government if the unfavorable bids or proposals are the result of conditions beyond its reasonable control.

(b) The Contractor will promptly advise the Contracting Officer if it finds that the project being designed will exceed or is likely to exceed the funding limitations and it is unable to design a usable facility within these limitations. Upon receipt of such information, the Contracting Officer will review the Contractor's revised estimate of construction cost. The Government may, if it determines that the estimated construction contract price set forth in this contract is so low that award of a construction contract not in excess of such estimate is improbable, authorize a change in scope or materials as required to reduce the estimated construction cost to an amount within the estimated construction contract price set forth in paragraph (c) below, or the Government may adjust such estimated construction contract price. When bids or proposals are not solicited or are unreasonably delayed, the Government shall prepare an estimate of constructing the design submitted and such estimate shall be used in lieu of bids or proposals to determine compliance with the funding limitation.

(c) The estimated construction contract price for the project described in this contract is \$

TO BE DETERMINED AT TASK ORDER

(End of clause)

CLAUSES INCORPORATED BY FULL TEXT

52.236-25 REQUIREMENTS FOR REGISTRATION OF DESIGNERS (JUN 2003)

Architects or engineers registered to practice in the particular professional field involved in a State, the District of Columbia, or an outlying area of the United States shall prepare or review and approve the design of architectural, structural, mechanical, electrical, civil, or other engineering features of the work.

(End of clause)

CLAUSES INCORPORATED BY FULL TEXT

52.236-26 PRECONSTRUCTION CONFERENCE (FEB 1995)

If the Contracting Officer decides to conduct a preconstruction conference, the successful offeror will be notified and will be required to attend. The Contracting Officer's notification will include specific details regarding the date, time, and location of the conference, any need for attendance by subcontractors, and information regarding the items to be discussed.

(End of clause)

CLAUSES INCORPORATED BY FULL TEXT

52.237-2 PROTECTION OF GOVERNMENT BUILDINGS, EQUIPMENT, AND VEGETATION (APR 1984)

The Contractor shall use reasonable care to avoid damaging existing buildings, equipment, and vegetation on the Government installation. If the Contractor's failure to use reasonable care causes damage to any of this property, the Contractor shall replace or repair the damage at no expense to the Government as the Contracting Officer directs. If the Contractor fails or refuses to make such repair or replacement, the Contractor shall be liable for the cost, which may be deducted from the contract price.

(End of clause)

CLAUSES INCORPORATED BY FULL TEXT

52.237-7 INDEMNIFICATION AND MEDICAL LIABILITY INSURANCE (JAN 1997)

(a) It is expressly agreed and understood that this is a nonpersonal services contract, as defined in Federal Acquisition Regulation (FAR) 37.101, under which the professional services rendered by the Contractor are rendered in its capacity as an independent contractor. The Government may evaluate the quality of professional and administrative services provided, but retains no control over professional aspects of the services rendered, including by example, the Contractor's professional medical judgment, diagnosis, or specific medical treatments. The Contractor shall be solely liable for and expressly agrees to indemnify the Government with respect to any liability producing acts or omissions by it or by its employees or agents. The Contractor shall maintain during the term of this contract liability insurance issued by a responsible insurance carrier of not less than the following amount(s) per specialty per occurrence:*

(b) An apparently successful offeror, upon request by the Contracting Officer, shall furnish prior to contract award evidence of its insurability concerning the medical liability insurance required by paragraph (a) of this clause.

(c) Liability insurance may be on either an occurrences basis or on a claims-made basis. If the policy is on a claims-made basis, an extended reporting endorsement (tail) for a period of not less than 3 years after the end of the contract term must also be provided.

(d) Evidence of insurance documenting the required coverage for each health care provider who will perform under this contract shall be provided to the Contracting Officer prior to the commencement of services under this contract. If the insurance is on a claims-made basis and evidence of an extended reporting endorsement is not provided prior to the commencement of services, evidence of such endorsement shall be provided to the Contracting Officer prior to the expiration of this contract. Final payment under this contract shall be withheld until evidence of the extended reporting endorsement is provided to the Contracting Officer.

(e) The policies evidencing required insurance shall also contain an endorsement to the effect that any cancellation or material change adversely affecting the Government's interest shall not be effective until 30 days after the insurer or the Contractor gives written notice to the Contracting Officer. If, during the performance period of the contract the Contractor changes insurance providers, the Contractor must provide evidence that the Government will be indemnified to the limits specified in paragraph (a) of this clause, for the entire period of the contract, either under the new policy, or a combination of old and new policies.

(f) The Contractor shall insert the substance of this clause, including this paragraph (f), in all subcontracts under this contract for health care services and shall require such subcontractors to provide evidence of and maintain insurance in accordance with paragraph (a) of this clause. At least 5 days before the commencement of work by any subcontractor, the Contractor shall furnish to the Contracting Officer evidence of such insurance.

Contracting Officer insert the dollar value(s) of standard coverage(s) prevailing within the local community as to the specific medical specialty, or specialties, concerned, or such higher amount as the Contracting Officer deems necessary to protect the Government's interests.

(End of clause)

CLAUSES INCORPORATED BY FULL TEXT

52.242-13 BANKRUPTCY (JUL 1995)

In the event the Contractor enters into proceedings relating to bankruptcy, whether voluntary or involuntary, the Contractor agrees to furnish, by certified mail or electronic commerce method authorized by the contract, written notification of the bankruptcy to the Contracting Officer responsible for administering the contract. This notification shall be furnished within five days of the initiation of the proceedings relating to bankruptcy filing. This notification shall include the date on which the bankruptcy petition was filed, the identity of the court in which the bankruptcy petition was filed, and a listing of Government contract numbers and contracting offices for all Government contracts against which final payment has not been made. This obligation remains in effect until final payment under this contract.

(End of clause)

CLAUSES INCORPORATED BY FULL TEXT

52.242-14 SUSPENSION OF WORK (APR 1984)

(a) The Contracting Officer may order the Contractor, in writing, to suspend, delay, or interrupt all or any part of the work of this contract for the period of time that the Contracting Officer determines appropriate for the convenience

of the Government.

(b) If the performance of all or any part of the work is, for an unreasonable period of time, suspended, delayed, or interrupted (1) by an act of the Contracting Officer in the administration of this contract, or (2) by the Contracting Officer's failure to act within the time specified in this contract (or within a reasonable time if not specified), an adjustment shall be made for any increase in the cost of performance of this contract (excluding profit) necessarily caused by the unreasonable suspension, delay, or interruption, and the contract modified in writing accordingly. However, no adjustment shall be made under this clause for any suspension, delay, or interruption to the extent that performance would have been so suspended, delayed, or interrupted by any other cause, including the fault or negligence of the Contractor, or for which an equitable adjustment is provided for or excluded under any other term or condition of this contract. (c) A claim under this clause shall not be allowed (1) for any costs incurred more than 20 days before the Contractor shall have notified the Contracting Officer in writing of the act or failure to act involved (but this requirement shall not apply as to a claim resulting from a suspension order), and (2) unless the claim, in an amount stated, is asserted in writing as soon as practicable after the termination of the suspension, delay, or interruption, but not later than the date of final payment under the contract.

(End of clause)

CLAUSES INCORPORATED BY FULL TEXT

52.242-15 STOP-WORK ORDER (AUG 1989)

(a) The Contracting Officer may, at any time, by written order to the Contractor, require the Contractor to stop all, or any part, of the work called for by this contract for a period of 90 days after the order is delivered to the Contractor, and for any further period to which the parties may agree. The order shall be specifically identified as a stop-work order issued under this clause. Upon receipt of the order, the Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage. Within a period of 90 days after a stop-work is delivered to the Contractor, or within any extension of that period to which the parties shall have agreed, the Contracting Officer shall either--

(1) Cancel the stop-work order; or

(2) Terminate the work covered by the order as provided in the Default, or the Termination for Convenience of the Government, clause of this contract.

(b) If a stop-work order issued under this clause is canceled or the period of the order or any extension thereof expires, the Contractor shall resume work. The Contracting Officer shall make an equitable adjustment in the delivery schedule or contract price, or both, and the contract shall be modified, in writing, accordingly, if--

(1) The stop-work order results in an increase in the time required for, or in the Contractor's cost properly allocable to, the performance of any part of this contract; and

(2) The Contractor asserts its right to the adjustment within 30 days after the end of the period of work stoppage; provided, that, if the Contracting Officer decides the facts justify the action, the Contracting Officer may receive and act upon the claim submitted at any time before final payment under this contract.

(c) If a stop-work order is not canceled and the work covered by the order is terminated for the convenience of the Government, the Contracting Officer shall allow reasonable costs resulting from the stop-work order in arriving at the termination settlement.

(d) If a stop-work order is not canceled and the work covered by the order is terminated for default, the Contracting

Officer shall allow, by equitable adjustment or otherwise, reasonable costs resulting from the stop-work order.

(End of clause)

CLAUSES INCORPORATED BY FULL TEXT

52.242-17 GOVERNMENT DELAY OF WORK (APR 1984)

(a) If the performance of all or any part of the work of this contract is delayed or interrupted (1) by an act of the Contracting Officer in the administration of this contract that is not expressly or impliedly authorized by this contract, or (2) by a failure of the Contracting Officer to act within the time specified in this contract, or within a reasonable time if not specified, an adjustment (excluding profit) shall be made for any increase in the cost of performance of this contract caused by the delay or interruption and the contract shall be modified in writing accordingly. Adjustment shall also be made in the delivery or performance dates and any other contractual term or condition affected by the delay or interruption. However, no adjustment shall be made under this clause for any delay or interruption to the extent that performance would have been delayed or interrupted by any other cause, including the fault or negligence of the Contractor, or for which an adjustment is provided or excluded under any other term or condition of this contract.

(b) A claim under this clause shall not be allowed (1) for any costs incurred more than 20 days before the Contractor shall have notified the Contracting Officer in writing of the act or failure to act involved, and (2) unless the claim, in an amount stated, is asserted in writing as soon as practicable after the termination of the delay or interruption, but not later than the day of final payment under the contract.

(End of clause)

CLAUSES INCORPORATED BY FULL TEXT

52.243-1 CHANGES--FIXED-PRICE (AUG 1987) - ALTERNATE III (APR 1984)

(a) The Contracting Officer may at any time, by written order, and without notice to the sureties, if any, make changes within the general scope of this contract in the services to be performed.

(b) If any such change causes an increase or decrease in the cost of, or the time required for, performance of any part of the work under this contract, whether or not changed by the order, the Contracting Officer shall make an equitable adjustment in the contract price, the delivery schedule, or both, and shall modify the contract.

(c) The Contractor must assert its right to an adjustment under this clause within 30 days from the date of receipt of the written order. However, if the Contracting Officer decides that the facts justify it, the Contracting Officer may receive and act upon a proposal submitted before final payment of the contract.

(d) If the Contractor's proposal includes the cost of property made obsolete or excess by the change, the Contracting Officer shall have the right to prescribe the manner of the disposition of the property.

(e) Failure to agree to any adjustment shall be a dispute under the Disputes clause. However, nothing in this clause shall excuse the Contractor from proceeding with the contract as changed.

(f) No services for which an additional cost or fee will be charged by the Contractor shall be furnished without the

prior written authorization of the Contracting Officer.

(End of clause)

CLAUSES INCORPORATED BY FULL TEXT

52.243-4 CHANGES (JUN 2007)

(a) The Contracting Officer may, at any time, without notice to the sureties, if any, by written order designated or indicated to be a change order, make changes in the work within the general scope of the contract, including changes--

- (1) In the specifications (including drawings and designs);
- (2) In the method or manner of performance of the work;
- (3) In the Government-furnished property or services; or
- (4) Directing acceleration in the performance of the work.

(b) Any other written or oral order (which, as used in this paragraph (b), includes direction, instruction, interpretation, or determination) from the Contracting Officer that causes a change shall be treated as a change order under this clause; provided, that the Contractor gives the Contracting Officer written notice stating

- (1) the date, circumstances, and source of the order and
- (2) that the Contractor regards the order as a change order.

(c) Except as provided in this clause, no order, statement, or conduct of the Contracting Officer shall be treated as a change under this clause or entitle the Contractor to an equitable adjustment.

(d) If any change under this clause causes an increase or decrease in the Contractor's cost of, or the time required for, the performance of any part of the work under this contract, whether or not changed by any such order, the Contracting Officer shall make an equitable adjustment and modify the contract in writing. However, except for an adjustment based on defective specifications, no adjustment for any change under paragraph (b) of this clause shall be made for any costs incurred more than 20 days before the Contractor gives written notice as required. In the case of defective specifications for which the Government is responsible, the equitable adjustment shall include any increased cost reasonably incurred by the Contractor in attempting to comply with the defective specifications.

(e) The Contractor must assert its right to an adjustment under this clause within 30 days after

(1) receipt of a written change order under paragraph (a) of this clause or (2) the furnishing of a written notice under paragraph (b) of this clause, by submitting to the Contracting Officer a written statement describing the general nature and amount of the proposal, unless this period is extended by the Government. The statement of proposal for adjustment may be included in the notice under paragraph (b) above.

(f) No proposal by the Contractor for an equitable adjustment shall be allowed if asserted after final payment under this contract.

(End of clause)

CLAUSES INCORPORATED BY FULL TEXT

52.243-5 CHANGES AND CHANGED CONDITIONS (APR 1984)

- (a) The Contracting Officer may, in writing, order changes in the drawings and specifications within the general scope of the contract.
- (b) The Contractor shall promptly notify the Contracting Officer, in writing, of subsurface or latent physical conditions differing materially from those indicated in this contract or unknown unusual physical conditions at the site before proceeding with the work.
- (c) If changes under paragraph (a) or conditions under paragraph (b) increase or decrease the cost of, or time required for performing the work, the Contracting Officer shall make an equitable adjustment (see paragraph (d)) upon submittal of a "proposal for adjustment" (hereafter referred to as proposal) by the Contractor before final payment under the contract.
- (d) The Contracting Officer shall not make an equitable adjustment under paragraph (b) unless--
- (1) The Contractor has submitted and the Contracting Officer has received the required written notice; or
 - (2) The Contracting Officer waives the requirement for the written notice.
- (e) Failure to agree to any adjustment shall be a dispute under the Disputes clause.
- (End of clause)

CLAUSES INCORPORATED BY FULL TEXT

52.243-7 NOTIFICATION OF CHANGES (APR 1984)

(a) Definitions.

"Contracting Officer," as used in this clause, does not include any representative of the Contracting Officer.

"Specifically authorized representative (SAR)," as used in this clause, means any person the Contracting Officer has so designated by written notice (a copy of which shall be provided to the Contractor) which shall refer to this subparagraph and shall be issued to the designated representative before the SAR exercises such authority.

(b) Notice. The primary purpose of this clause is to obtain prompt reporting of Government conduct that the Contractor considers to constitute a change to this contract. Except for changes identified as such in writing and signed by the Contracting Officer, the Contractor shall notify the Administrative Contracting Officer in writing, within 7 calendar days from the date that the Contractor identifies any Government conduct (including actions, inactions, and written or oral communications) that the Contractor regards as a change to the contract terms and conditions. On the basis of the most accurate information available to the Contractor, the notice shall state--

- (1) The date, nature, and circumstances of the conduct regarded as a change;
- (2) The name, function, and activity of each Government individual and Contractor official or employee involved in

or knowledgeable about such conduct;

(3) The identification of any documents and the substance of any oral communication involved in such conduct;

(4) In the instance of alleged acceleration of scheduled performance or delivery, the basis upon which it arose;

(5) The particular elements of contract performance for which the Contractor may seek an equitable adjustment under this clause, including--

(i) What contract line items have been or may be affected by the alleged change;

(ii) What labor or materials or both have been or may be added, deleted, or wasted by the alleged change;

(iii) To the extent practicable, what delay and disruption in the manner and sequence of performance and effect on continued performance have been or may be caused by the alleged change;

(iv) What adjustments to contract price, delivery schedule, and other provisions affected by the alleged change are estimated; and

(6) The Contractor's estimate of the time by which the Government must respond to the Contractor's notice to minimize cost, delay or disruption of performance.

(c) Continued performance. Following submission of the notice required by (b) above, the Contractor shall diligently continue performance of this contract to the maximum extent possible in accordance with its terms and conditions as construed by the Contractor, unless the notice reports a direction of the Contracting Officer or a communication from a SAR of the Contracting Officer, in either of which events the Contractor shall continue performance; provided, however, that if the Contractor regards the direction or communication as a change as described in (b) above, notice shall be given in the manner provided. All directions, communications, interpretations, orders and similar actions of the SAR shall be reduced to writing and copies furnished to the Contractor and to the Contracting Officer. The Contracting Officer shall countermand any action which exceeds the authority of the SAR.

(d) Government response. The Contracting Officer shall promptly, within 10 calendar days after receipt of notice, respond to the notice in writing. In responding, the Contracting Officer shall either--

(1) Confirm that the conduct of which the Contractor gave notice constitutes a change and when necessary direct the mode of further performance;

(2) Countermand any communication regarded as a change;

(3) Deny that the conduct of which the Contractor gave notice constitutes a change and when necessary direct the mode of further performance; or

(4) In the event the Contractor's notice information is inadequate to make a decision under (1), (2), or (3) above, advise the Contractor what additional information is required, and establish the date by which it should be furnished and the date thereafter by which the Government will respond.

(e) Equitable adjustments.

(1) If the Contracting Officer confirms that Government conduct effected a change as alleged by the Contractor, and the conduct causes an increase or decrease in the Contractor's cost of, or the time required for, performance of any part of the work under this contract, whether changed or not changed by such conduct, an equitable adjustment shall be made--

- (i) In the contract price or delivery schedule or both; and
- (ii) In such other provisions of the contract as may be affected.

(2) The contract shall be modified in writing accordingly. In the case of drawings, designs or specifications which are defective and for which the Government is responsible, the equitable adjustment shall include the cost and time extension for delay reasonably incurred by the Contractor in attempting to comply with the defective drawings, designs or specifications before the Contractor identified, or reasonably should have identified, such defect. When the cost of property made obsolete or excess as a result of a change confirmed by the Contracting Officer under this clause is included in the equitable adjustment, the Contracting Officer shall have the right to prescribe the manner of disposition of the property. The equitable adjustment shall not include increased costs or time extensions for delay resulting from the Contractor's failure to provide notice or to continue performance as provided, respectively, in (b) and (c) above.

Note: The phrases "contract price" and "cost" wherever they appear in the clause, may be appropriately modified to apply to cost-reimbursement or incentive contracts, or to combinations thereof.

(End of clause)

CLAUSES INCORPORATED BY FULL TEXT

52.244-2 SUBCONTRACTS (JUN 2007)

(a) Definitions. As used in this clause--

Approved purchasing system means a Contractor's purchasing system that has been reviewed and approved in accordance with Part 44 of the Federal Acquisition Regulation (FAR).

Consent to subcontract means the Contracting Officer's written consent for the Contractor to enter into a particular subcontract.

Subcontract means any contract, as defined in FAR Subpart 2.1, entered into by a subcontractor to furnish supplies or services for performance of the prime contract or a subcontract. It includes, but is not limited to, purchase orders, and changes and modifications to purchase orders.

(b) When this clause is included in a fixed-price type contract, consent to subcontract is required only on unpriced contract actions (including unpriced modifications or unpriced delivery orders), and only if required in accordance with paragraph (c) or (d) of this clause.

(c) If the Contractor does not have an approved purchasing system, consent to subcontract is required for any subcontract that—

- (1) Is of the cost-reimbursement, time-and-materials, or labor-hour type; or
- (2) Is fixed-price and exceeds—

(i) For a contract awarded by the Department of Defense, the Coast Guard, or the National Aeronautics and Space Administration, the greater of the simplified acquisition threshold or 5 percent of the total estimated cost of the contract; or

(ii) For a contract awarded by a civilian agency other than the Coast Guard and the National Aeronautics and Space Administration, either the simplified acquisition threshold or 5 percent of the total estimated cost of the contract.

(d) If the Contractor has an approved purchasing system, the Contractor nevertheless shall obtain the Contracting Officer's written consent before placing the following subcontracts:

ANY SUBCONTRACT OVER \$100,000.00

(e)(1) The Contractor shall notify the Contracting Officer reasonably in advance of placing any subcontract or modification thereof for which consent is required under paragraph (b), (c), or (d) of this clause, including the following information:

(i) A description of the supplies or services to be subcontracted.

(ii) Identification of the type of subcontract to be used.

(iii) Identification of the proposed subcontractor.

(iv) The proposed subcontract price.

(v) The subcontractor's current, complete, and accurate cost or pricing data and Certificate of Current Cost or Pricing Data, if required by other contract provisions.

(vi) The subcontractor's Disclosure Statement or Certificate relating to Cost Accounting Standards when such data are required by other provisions of this contract.

(vii) A negotiation memorandum reflecting—

(A) The principal elements of the subcontract price negotiations;

(B) The most significant considerations controlling establishment of initial or revised prices;

(C) The reason cost or pricing data were or were not required;

(D) The extent, if any, to which the Contractor did not rely on the subcontractor's cost or pricing data in determining the price objective and in negotiating the final price;

(E) The extent to which it was recognized in the negotiation that the subcontractor's cost or pricing data were not accurate, complete, or current; the action taken by the Contractor and the subcontractor; and the effect of any such defective data on the total price negotiated;

(F) The reasons for any significant difference between the Contractor's price objective and the price negotiated; and

(G) A complete explanation of the incentive fee or profit plan when incentives are used. The explanation shall identify each critical performance element, management decisions used to quantify each incentive element, reasons for the incentives, and a summary of all trade-off possibilities considered.

(2) The Contractor is not required to notify the Contracting Officer in advance of entering into any subcontract for which consent is not required under paragraph (c), (d), or (e) of this clause.

(f) Unless the consent or approval specifically provides otherwise, neither consent by the Contracting Officer to any subcontract nor approval of the Contractor's purchasing system shall constitute a determination—

(1) Of the acceptability of any subcontract terms or conditions;

(2) Of the allowability of any cost under this contract; or

(3) To relieve the Contractor of any responsibility for performing this contract.

(g) No subcontract or modification thereof placed under this contract shall provide for payment on a cost-plus-a-percentage-of-cost basis, and any fee payable under cost-reimbursement type subcontracts shall not exceed the fee limitations in FAR 15.404-4(c)(4)(i).

(h) The Contractor shall give the Contracting Officer immediate written notice of any action or suit filed and prompt notice of any claim made against the Contractor by any subcontractor or vendor that, in the opinion of the Contractor, may result in litigation related in any way to this contract, with respect to which the Contractor may be entitled to reimbursement from the Government.

(i) The Government reserves the right to review the Contractor's purchasing system as set forth in FAR Subpart 44.3.

(j) Paragraphs (c) and (e) of this clause do not apply to the following subcontracts, which were evaluated during negotiations:

(End of clause)

CLAUSES INCORPORATED BY FULL TEXT

52.244-5 COMPETITION IN SUBCONTRACTING (DEC 1996)

(a) The Contractor shall select subcontractors (including suppliers) on a competitive basis to the maximum practical extent consistent with the objectives and requirements of the contract.

(b) If the Contractor is an approved mentor under the Department of Defense Pilot Mentor-Protege Program (Pub. L. 101-510, section 831 as amended), the Contractor may award subcontracts under this contract on a noncompetitive basis to its proteges.

(End of clause)

CLAUSES INCORPORATED BY FULL TEXT

52.244-6 SUBCONTRACTS FOR COMMERCIAL ITEMS (DEC 2009)

(a) Definitions.

"Commercial item", has the meaning contained in Federal Acquisition Regulation 2.101, Definitions.

"Subcontract", includes a transfer of commercial items between divisions, subsidiaries, or affiliates of the Contractor or subcontractor at any tier.

(b) To the maximum extent practicable, the Contractor shall incorporate, and require its subcontractors at all tiers to incorporate, commercial items or nondevelopmental items as components of items to be supplied under this contract.

(c) (1) The Contractor shall insert the following clauses in subcontracts for commercial items:

(i) 52.203-13, Contractor Code of Business Ethics and Conduct (Dec 2008) (Pub. L. 110-252, Title VI, Chapter 1 (41 U.S.C. 251 note)), if the subcontract exceeds \$5,000,000 and has a performance period of ore than 120 days. In altering this clause to identify the appropriate parties, all disclosures of violation of the civil False Claims Act or of Federal criminal law shall be directed to the agency Office of the Inspector General, with a copy to the Contracting Officer.

(ii) .203-15, Whistleblower Protections Under the American Recovery and Reinvestment Act of 2009 (Section 1553 of Pub. L. 111-5), if the subcontract is funded under the Recovery Act.

(iii) 52.219-8, Utilization of Small Business Concerns (May 2004) (15 U.S.C. 637(d)(2) and (3)), if the subcontract offers further subcontracting opportunities. If the subcontract (except subcontracts to small business concerns) exceeds \$550,000 (\$1,000,000 for construction of any public facility), the subcontractor must include 52.219-8 in lower tier subcontracts that offer subcontracting opportunities.

(iv) 52.222-26, Equal Opportunity (MAR 2007) (E.O. 11246).

(v) 52.222-35, Equal Opportunity for Special Disabled Veterans, Veterans of the Vietnam Era and Other Eligible Veterans (SEP 2006) (38 U.S.C. 4212(a)).

(vi) 52.222-36, Affirmative Action for Workers with Disabilities (JUN 1998) (29 U.S.C. 793).

(vii) Reserved..

(viii) 52.222-50, Combating Trafficking in Persons (FEB 2009) (22 U.S.C. 7104(g)).

(ix) 52.247-64, Preference for Privately Owned U.S.-Flag Commercial Vessels (Feb 2006) (46 U.S.C. App. 1241 and 10 U.S.C. 2631), if flow down is required in accordance with paragraph (d) of FAR clause 52.247-64.

(2) While not required, the Contractor may flow down to subcontracts for commercial items a minimal number of additional clauses necessary to satisfy its contractual obligations.

(d) The Contractor shall include the terms of this clause, including this paragraph (d), in subcontracts awarded under this contract.

(End of clause)

52.245-1 GOVERNMENT PROPERTY (JUN 2007)

(a) Definitions. As used in this clause--

Acquisition cost means the cost to acquire a tangible capital asset including the purchase price of the asset and costs necessary to prepare the asset for use. Costs necessary to prepare the asset for use include the cost of placing the asset in location and bringing the asset to a condition necessary for normal or expected use.

Cannibalize means to remove serviceable parts from one item of equipment in order to install them on another item of equipment.

Contractor-acquired property means property acquired, fabricated, or otherwise provided by the Contractor for performing a contract, and to which the Government has title.

Contractor inventory means--

- (1) Any property acquired by and in the possession of a Contractor or subcontractor under a contract for which title is vested in the Government and which exceeds the amounts needed to complete full performance under the entire contract;
- (2) Any property that the Government is obligated or has the option to take over under any type of contract, e.g., as a result either of any changes in the specifications or plans thereunder or of the termination of the contract (or subcontract thereunder), before completion of the work, for the convenience or at the option of the Government; and
- (3) Government-furnished property that exceeds the amounts needed to complete full performance under the entire contract.

Contractor's managerial personnel means the Contractor's directors, officers, managers, superintendents, or equivalent representatives who have supervision or direction of—

- (1) All or substantially all of the Contractor's business;
- (2) All or substantially all of the Contractor's operation at any one plant or separate location; or
- (3) A separate and complete major industrial operation.

Demilitarization means rendering a product unusable for, and not restorable to, the purpose for which it was designed or is customarily used.

Discrepancies incident to shipment means any differences (e.g., count or condition) between the items documented to have been shipped and items actually received.

Equipment means a tangible asset that is functionally complete for its intended purpose, durable, nonexpendable, and needed for the performance of a contract. Equipment is not intended for sale, and does not ordinarily lose its identity or become a component part of another article when put into use.

Government-furnished property means property in the possession of, or directly acquired by, the Government and subsequently furnished to the Contractor for performance of a contract.

Government property means all property owned or leased by the Government. Government property includes both Government-furnished and Contractor-acquired property.

Material means property that may be consumed or expended during the performance of a contract, component parts of a higher assembly, or items that lose their individual identity through incorporation into an end-item. Material does not include equipment, special tooling and special test equipment.

Nonseverable means property that cannot be removed after construction or installation without substantial loss of value or damage to the installed property or to the premises where installed.

Plant equipment as used in this part, means personal property of a capital nature (including equipment, machine tools, test equipment, furniture, vehicles, and accessory and auxiliary items) for use in manufacturing supplies, in performing services, or for any administrative or general plant purpose. It does not include special tooling or special test equipment.

Precious metals means silver, gold, platinum, palladium, iridium, osmium, rhodium, and ruthenium.

Property means all tangible property, both real and personal.

Property Administrator means an authorized representative of the Contracting Officer appointed in accordance with agency procedures, responsible for administering the contract requirements and obligations relating to Government property in the possession of a Contractor.

Provide means to furnish, as in Government-furnished property, or to acquire, as in contractor-acquired property.

Real property means land and rights in land, ground improvements, utility distribution systems, and buildings and other structures. It does not include foundations and other work necessary for installing special tooling, special test equipment, or plant equipment.

Sensitive property means property potentially dangerous to the public safety or security if stolen, lost, or misplaced, or that shall be subject to exceptional physical security, protection, control, and accountability. Examples include weapons, ammunition, explosives, controlled substances, radioactive materials, hazardous materials or wastes, or precious metals.

Surplus property means excess personal property not required by any Federal agency as determined by the Administrator of the General Services Administration (GSA).

(b) Property management. (1) The Contractor shall have a system to manage (control, use, preserve, protect, repair and maintain) Government property in its possession. The system shall be adequate to satisfy the requirements of this clause. In doing so, the Contractor shall initiate and maintain the processes, systems, procedures, records, and methodologies necessary for effective control of Government property, consistent with voluntary consensus standards and/or industry-leading practices and standards for Government property management except where inconsistent with law or regulation. During the period of performance, the Contractor shall disclose any significant changes to their property management system to the Property Administrator prior to implementation.

(2) The Contractor's responsibility extends from the initial acquisition and receipt of property, through stewardship, custody, and use until formally relieved of responsibility by authorized means, including delivery, consumption, expending, disposition, or via a completed investigation, evaluation, and final determination for lost, damaged, destroyed, or stolen property. This requirement applies to all Government property under the Contractor's accountability, stewardship, possession or control, including its vendors or subcontractors (see paragraph (f)(1)(v) of this clause).

(3) The Contractor shall include the requirements of this clause in all subcontracts under which Government property is acquired or furnished for subcontract performance.

(c) Use of Government property. The Contractor shall use Government property, either furnished or acquired under this contract, only for performing this contract, unless otherwise provided for in this contract or approved by the Contracting Officer. The Contractor shall not modify, cannibalize, or make alterations to Government property unless this contract specifically identifies the modifications, alterations or improvements as work to be performed.

(d) Government-furnished property. (1) The Government shall deliver to the Contractor the Government-furnished property described in this contract. The Government shall furnish related data and information needed for the intended use of the property. The warranties of suitability of use and timely delivery of Government-furnished property do not apply to property acquired or fabricated by the Contractor as contractor-acquired property and subsequently transferred to another contract with this Contractor.

(2) The delivery and/or performance dates specified in this contract are based upon the expectation that the Government-furnished property will be suitable for contract performance and will be delivered to the Contractor by the dates stated in the contract.

(i) If the property is not delivered to the Contractor by the dates stated in the contract, the Contracting Officer shall, upon the Contractor's timely written request, consider an equitable adjustment to the contract.

(ii) In the event property is received by the Contractor, or for Government-furnished property after receipt and installation, in a condition not suitable for its intended use, the Contracting Officer shall, upon the Contractor's timely written request, advise the Contractor on a course of action to remedy the problem. Such action may include repairing, replacing, modifying, returning, or otherwise disposing of the property at the Government's expense. Upon completion of the required action(s), the Contracting Officer shall consider an equitable adjustment to the contract (see also paragraph (f)(1)(ii)(A) of this clause).

(iii) The Government may, at its option, furnish property in an "as-is" condition. The Contractor will be given the opportunity to inspect such property prior to the property being provided. In such cases, the Government makes no warranty with respect to the serviceability and/or suitability of the property for contract performance. Any repairs, replacement, and/or refurbishment shall be at the Contractor's expense.

(3)(i) The Contracting Officer may by written notice, at any time--

(A) Increase or decrease the amount of Government-furnished property under this contract;

(B) Substitute other Government-furnished property for the property previously furnished, to be furnished, or to be acquired by the Contractor for the Government under this contract; or

(C) Withdraw authority to use property.

(ii) Upon completion of any action(s) under paragraph (d)(3)(i) of this clause, and the Contractor's timely written request, the Contracting Officer shall consider an equitable adjustment to the contract.

(e) Title to Government property. (1) The Government shall retain title to all Government-furnished property. Title to Government property shall not be affected by its incorporation into or attachment to any property not owned by the Government, nor shall Government property become a fixture or lose its identity as personal property by being attached to any real property.

(2) Fixed-price contracts. (i) All Government-furnished property and all property acquired by the Contractor, title to which vests in the Government under this paragraph (collectively referred to as "Government property"), are subject to the provisions of this clause.

(ii) Title to each item of equipment, special test equipment and special tooling acquired by the Contractor for the Government under this contract shall pass to and vest in the Government when its use in performing this contract commences or when the Government has paid for it, whichever is earlier, whether or not title previously vested in the Government.

(iii) If this contract contains a provision directing the Contractor to purchase material for which the Government will reimburse the Contractor as a direct item of cost under this contract--

(A) Title to material purchased from a vendor shall pass to and vest in the Government upon the vendor's delivery of such material; and

(B) Title to all other material shall pass to and vest in the Government upon--

(1) Issuance of the material for use in contract performance;

(2) Commencement of processing of the material or its use in contract performance; or

(3) Reimbursement of the cost of the material by the Government, whichever occurs first.

(3) Title under Cost-Reimbursement or Time-and-Material Contracts or Cost-Reimbursable contract line items under Fixed-Price contracts. (i) Title to all property purchased by the Contractor for which the Contractor is entitled to be reimbursed as a direct item of cost under this contract shall pass to and vest in the Government upon the vendor's delivery of such property.

(ii) Title to all other property, the cost of which is reimbursable to the Contractor, shall pass to and vest in the Government upon--

(A) Issuance of the property for use in contract performance;

(B) Commencement of processing of the property for use in contract performance; or

(C) Reimbursement of the cost of the property by the Government, whichever occurs first.

(iii) All Government-furnished property and all property acquired by the Contractor, title to which vests in the Government under this paragraph (e)(3)(iii) (collectively referred to as "Government property"), are subject to the provisions of this clause.

(f) Contractor plans and systems. (1) Contractors shall establish and implement property management plans, systems, and procedures at the contract, program, site or entity level to enable the following outcomes:

(i) Acquisition of Property. The Contractor shall document that all property was acquired consistent with its engineering, production planning, and material control operations.

(ii) Receipt of Government Property. The Contractor shall receive Government property (document the receipt), record the information necessary to meet the record requirements of paragraph (f)(1)(iii)(A)(1) through (5) of this clause, identify as Government owned in a manner appropriate to the type of property (e.g., stamp, tag, mark, or other identification), and manage any discrepancies incident to shipment.

(A) Government-furnished property. The Contractor shall furnish a written statement to the Property Administrator containing all relevant facts, such as cause or condition and a recommended course(s) of action, if overages, shortages, or damages and/or other discrepancies are discovered upon receipt of Government-furnished property.

(B) Contractor-acquired property. The Contractor shall take all actions necessary to adjust for overages, shortages, damage and/or other discrepancies discovered upon receipt, in shipment of Contractor-acquired property from a vendor or supplier, so as to ensure the proper allocability and allowability of associated costs.

(iii) Records of Government property. The Contractor shall create and maintain records of all Government property accountable to the contract, including Government-furnished and Contractor-acquired property.

(A) Property records shall enable a complete, current, auditable record of all transactions and shall, unless otherwise approved by the Property Administrator, contain the following:

(1) The name, part number and description, manufacturer, model number, and National Stock Number (if needed for additional item identification tracking and/or disposition).

(2) Quantity received (or fabricated), issued, and balance-on-hand.

(3) Unit acquisition cost.

(4) Unique-item identifier or equivalent (if available and necessary for individual item tracking).

(5) Unit of measure.

(6) Accountable contract number or equivalent code designation.

(7) Location.

(8) Disposition.

(9) Posting reference and date of transaction.

(10) Date placed in service.

(B) Use of a Receipt and Issue System for Government Material. When approved by the Property Administrator, the Contractor may maintain, in lieu of formal property records, a file of appropriately cross-referenced documents evidencing receipt, issue, and use of material that is issued for immediate consumption.

(iv) Physical inventory. The Contractor shall periodically perform, record, and disclose physical inventory results. A final physical inventory shall be performed upon contract completion or termination. The Property Administrator may waive this final inventory requirement, depending on the circumstances (e.g., overall reliability of the Contractor's system or the property is to be transferred to a follow-on contract).

(v) Subcontractor control. (A) The Contractor shall award subcontracts that clearly identify assets to be provided and shall ensure appropriate flow down of contract terms and conditions (e.g., extent of liability for loss, damage, destruction or theft of Government property).

(B) The Contractor shall assure its subcontracts are properly administered and reviews are periodically performed to determine the adequacy of the subcontractor's property management system.

(vi) Reports. The Contractor shall have a process to create and provide reports of discrepancies; loss, damage, destruction, or theft; physical inventory results; audits and self-assessments; corrective actions; and other property related reports as directed by the Contracting Officer.

(A) Loss, damage, destruction, or theft. Unless otherwise directed by the Property Administrator, the Contractor shall investigate and promptly furnish a written narrative of all incidents of loss, damage, destruction, or theft to the property administrator as soon as the facts become known or when requested by the Government.

(B) Such reports shall, at a minimum, contain the following information:

(1) Date of incident (if known).

(2) The name, commercial description, manufacturer, model number, and National Stock Number (if applicable).

(3) Quantity.

(4) Unique Item Identifier (if available).

(5) Accountable Contract number.

(6) A statement indicating current or future need.

(7) Acquisition cost, or if applicable, estimated scrap proceeds, estimated repair or replacement costs.

(8) All known interests in commingled property of which the Government property is a part.

(9) Cause and corrective action taken or to be taken to prevent recurrence.

(10) A statement that the Government will receive any reimbursement covering the loss, damage, destruction, or theft, in the event the Contractor was or will be reimbursed or compensated.

(11) Copies of all supporting documentation.

(12) Last known location.

(13) A statement that the property did or did not contain sensitive or hazardous material, and if so, that the appropriate agencies were notified.

(vii) Relief of stewardship responsibility. Unless the contract provides otherwise, the Contractor shall be relieved of stewardship responsibility for Government property when such property is--

(A) Consumed or expended, reasonably and properly, or otherwise accounted for, in the performance of the contract, including reasonable inventory adjustments of material as determined by the Property Administrator; or a Property Administrator granted relief of responsibility for loss, damage, destruction or theft of Government property;

(B) Delivered or shipped from the Contractor's plant, under Government instructions, except when shipment is to a subcontractor or other location of the Contractor; or

(C) Disposed of in accordance with paragraphs (j) and (k) of this clause.

(viii) Utilizing Government property. (A) The Contractor shall utilize, consume, move, and store Government Property only as authorized under this contract. The Contractor shall promptly disclose and report Government property in its possession that is excess to contract performance.

(B) Unless otherwise authorized in this contract or by the Property Administrator the Contractor shall not commingle Government property with property not owned by the Government.

(ix) Maintenance. The Contractor shall properly maintain Government property. The Contractor's maintenance program shall enable the identification, disclosure, and performance of normal and routine preventative maintenance and repair. The Contractor shall disclose and report to the Property Administrator the need for replacement and/or capital rehabilitation.

(x) Property closeout. The Contractor shall promptly perform and report to the Property Administrator contract property closeout, to include reporting, investigating and securing closure of all loss, damage, destruction, or theft cases; physically inventorying all property upon termination or completion of this contract; and disposing of items at the time they are determined to be excess to contractual needs.

(2) The Contractor shall establish and maintain Government accounting source data, as may be required by this contract, particularly in the areas of recognition of acquisitions and dispositions of material and equipment.

(3) The Contractor shall establish and maintain procedures necessary to assess its property management system effectiveness, and shall perform periodic internal reviews and audits. Significant findings and/or results of such reviews and audits pertaining to Government property shall be made available to the Property Administrator.

(g) Systems analysis. (1) The Government shall have access to the contractor's premises and all Government property, at reasonable times, for the purposes of reviewing, inspecting and evaluating the Contractor's property management plan, systems, procedures, records, and supporting documentation that pertains to Government property.

(2) Records of Government property shall be readily available to authorized Government personnel and shall be safeguarded from tampering or destruction.

(3) Should it be determined by the Government that the Contractor's property management practices are inadequate or not acceptable for the effective management and/or control of Government property under this contract, and/or present an undue risk to the Government, the Contractor shall immediately take all necessary corrective actions as directed by the Property Administrator.

(4) The Contractor shall ensure Government access to subcontractor premises, and all Government property located at subcontractor premises, for the purposes of reviewing, inspecting and evaluating the subcontractor's property management plan, systems, procedures, records, and supporting documentation that pertains to Government property.

(h) Contractor Liability for Government Property. (1) Unless otherwise provided for in the contract, the Contractor shall not be liable for loss, damage, destruction, or theft to the Government property furnished or acquired under this contract, except when any one of the following applies--

(i) The risk is covered by insurance or the Contractor is otherwise reimbursed (to the extent of such insurance or reimbursement). The allowability of insurance costs shall be determined in accordance with 31.205-19.

(ii) The loss, damage, destruction, or theft is the result of willful misconduct or lack of good faith on the part of the Contractor's managerial personnel. Contractor's managerial personnel, in this clause, means the Contractor's directors, officers, managers, superintendents, or equivalent representatives who have supervision or direction of all or substantially all of the Contractor's business; all or substantially all of the Contractor's operation at any one plant or separate location; or a separate and complete major industrial operation.

(iii) The Contracting Officer has, in writing, revoked the Government's assumption of risk for loss, damage, destruction, or theft, due to a determination under paragraph (g) of this clause that the Contractor's property management practices are inadequate, and/or present an undue risk to the Government, and the Contractor failed to take timely corrective action. If the Contractor can establish by clear and convincing evidence that the loss, damage, destruction, or theft of Government property occurred while the Contractor had adequate property management practices or the loss, damage, destruction, or theft of Government property did not result from the Contractor's failure to maintain adequate property management practices, the Contractor shall not be held liable. (2) The Contractor shall take all reasonable actions necessary to protect the Government property from further loss, damage, destruction, or theft. The Contractor shall separate the damaged and undamaged Government property, place all the affected Government property in the best possible order, and take such other action as the Property Administrator directs.

(3) The Contractor shall do nothing to prejudice the Government's rights to recover against third parties for any loss, damage, destruction, or theft of Government property.

(4) Upon the request of the Contracting Officer, the Contractor shall, at the Government's expense, furnish to the Government all reasonable assistance and cooperation, including the prosecution of suit and the execution of instruments of assignment in favor of the Government in obtaining recovery.

(i) Equitable adjustment. Equitable adjustments under this clause shall be made in accordance with the procedures of the Changes clause. The right to an equitable adjustment shall be the Contractor's exclusive remedy and the Government shall not be liable to suit for breach of contract for the following:

(1) Any delay in delivery of Government-furnished property.

(2) Delivery of Government-furnished property in a condition not suitable for its intended use.

(3) An increase, decrease, or substitution of Government-furnished property.

(4) Failure to repair or replace Government property for which the Government is responsible.

(j) Contractor inventory disposal. Except as otherwise provided for in this contract, the Contractor shall not dispose of Contractor inventory until authorized to do so by the Plant Clearance Officer.

(1) Scrap to which the Government has obtained title under paragraph (e) of this clause. (i) Contractor with an approved scrap procedure. (A) The Contractor may dispose of scrap resulting from production or testing under this contract without Government approval. However, if the scrap requires demilitarization or is sensitive property, the Contractor shall submit the scrap on an inventory disposal schedule.

(B) For scrap from other than production or testing the Contractor may prepare scrap lists in lieu of inventory disposal schedules (provided such lists are consistent with the approved scrap procedures), except that inventory disposal schedules shall be submitted for scrap aircraft or aircraft parts and scrap that--

(1) Requires demilitarization;

2) Is a classified item;

(3) Is generated from classified items;

(4) Contains hazardous materials or hazardous wastes;

(5) Contains precious metals; or

(6) Is dangerous to the public health, safety, or welfare.

(ii) Contractor without an approved scrap procedure. The Contractor shall submit an inventory disposal schedule for all scrap. The Contractor may not dispose of scrap resulting from production or testing under this contract without Government approval.

(2) Predisposal requirements. (i) Once the Contractor determines that Contractor-acquired property is no longer needed for contract performance, the Contractor in the following order of priority--

(A) May contact the Contracting Officer if use of the property in the performance of other Government contracts is practical;

(B) May purchase the property at the acquisition cost; or

(C) Shall make reasonable efforts to return unused property to the appropriate supplier at fair market value (less, if applicable, a reasonable restocking fee that is consistent with the supplier's customary practices).

(ii) The Contractor shall list, on Standard Form 1428, Inventory Disposal Schedule, property that was not used in the performance of other Government contracts under paragraph (j)(2)(i)(A) of this clause, property that was not purchased under paragraph (j)(2)(i)(B) of this clause, and property that could not be returned to a supplier under paragraph (j)(2)(i)(C) of this clause.

(3) Inventory disposal schedules. (i) The Contractor shall use Standard Form 1428, Inventory Disposal Schedule, to identify--

(A) Government-furnished property that is no longer required for performance of this contract, provided the terms of another Government contract do not require the Government to furnish that property for performance of this contract;

(B) Contractor-acquired property, to which the Government has obtained title under paragraph (e) of this clause, which is no longer required for performance of that contract; and

(C) Termination inventory.

(ii) The Contractor may annotate inventory disposal schedules to identify property the Contractor wishes to purchase from the Government.

(iii) Unless the Plant Clearance Officer has agreed otherwise, or the contract requires electronic submission of inventory disposal schedules, the Contractor shall prepare separate inventory disposal schedules for--

(A) Special test equipment with commercial components;

(B) Special test equipment without commercial components;

(C) Printing equipment;

(D) Information technology (e.g., computers, computer components, peripheral equipment, and related equipment);

(E) Precious metals;

(F) Nonnuclear hazardous materials or hazardous wastes; or

(G) Nuclear materials or nuclear wastes.

(iv) The Contractor shall describe the property in sufficient detail to permit an understanding of its intended use. Property with the same description, condition code, and reporting location may be grouped in a single line item.

(4) Submission requirements. The Contractor shall submit inventory disposal schedules to the Plant Clearance Officer no later than--

(i) 30-days following the Contractor's determination that a Government property item is no longer required for performance of this contract;

(ii) 60 days, or such longer period as may be approved by the Plant Clearance Officer, following completion of contract deliveries or performance; or

(iii) 120 days, or such longer period as may be approved by the Termination Contracting Officer following contract termination in whole or in part.

(5) Corrections. The Plant Clearance Officer may--

(i) Reject a schedule for cause (e.g., contains errors, determined to be inaccurate); and

(ii) Require the Contractor to correct an inventory disposal schedule.

(6) Postsubmission adjustments. The Contractor shall notify the Plant Clearance Officer at least 10 working days in advance of its intent to remove an item from an approved inventory disposal schedule. Upon approval of the Plant Clearance Officer, or upon expiration of the notice period, the Contractor may make the necessary adjustments to the inventory schedule.

(7) Storage. (i) The Contractor shall store the property identified on an inventory disposal schedule pending receipt of disposal instructions. The Government's failure to furnish disposal instructions within 120 days following

acceptance of an inventory disposal schedule may entitle the Contractor to an equitable adjustment for costs incurred to store such property on or after the 121st day.

(ii) The Contractor shall obtain the Plant Clearance Officer's approval to remove Government property from the premises where the property is currently located prior to receipt of final disposition instructions. If approval is granted, any costs incurred by the Contractor to transport or store the property shall not increase the price or fee of any Government contract. The storage facility shall be appropriate for assuring the property's physical safety and suitability for use. Approval does not relieve the Contractor of any liability for such property under this contract.

(8) Disposition instructions. (i) If the Government does not furnish disposition instructions to the Contractor within 45 days following acceptance of a scrap list, the Contractor may dispose of the listed scrap in accordance with the Contractor's approved scrap procedures.

(ii) The Contractor shall prepare for shipment, deliver f.o.b. origin, or dispose of Contractor inventory as directed by the Plant Clearance Officer. If not returned to the Government, the Contractor shall remove and destroy any markings identifying the property as U.S. Government-owned property prior to its disposal.

(iii) The Contracting Officer may require the Contractor to demilitarize the property prior to shipment or disposal. In such cases, the Contractor may be entitled to an equitable adjustment under paragraph (i) of this clause.

(9) Disposal proceeds. As directed by the Contracting Officer, the Contractor shall credit the net proceeds from the disposal of Contractor inventory to the contract, or to the Treasury of the United States as miscellaneous receipts.

(10) Subcontractor inventory disposal schedules. The Contractor shall require its Subcontractors to submit inventory disposal schedules to the Contractor in accordance with the requirements of paragraph (j)(4) of this clause.

(k) Abandonment of Government property. (1) The Government shall not abandon sensitive Government property or termination inventory without the Contractor's written consent.

(2) The Government, upon notice to the Contractor, may abandon any nonsensitive Government property in place, at which time all obligations of the Government regarding such property shall cease.

(3) The Government has no obligation to restore or rehabilitate the Contractor's premises under any circumstances; however, if Government--furnished property is withdrawn or is unsuitable for the intended use, or if other Government property is substituted, then the equitable adjustment under paragraph (i) of this clause may properly include restoration or rehabilitation costs.

(l) Communication. All communications under this clause shall be in writing.

(m) Contracts outside the United States. If this contract is to be performed outside of the United States and its outlying areas, the words "Government" and "Government-furnished" (wherever they appear in this clause) shall be construed as "United States Government" and "United States Government-furnished," respectively.

(End of Clause)

CLAUSES INCORPORATED BY FULL TEXT

52.245-2 GOVERNMENT PROPERTY INSTALLATION OPERATION SERVICES (JUNE 2007)

(a) This Government Property listed in paragraph (e) of this clause is furnished to the Contractor in an "as-is, where is" condition. The Government makes no warranty regarding the suitability for use of the Government property

specified in this contract. The Contractor shall be afforded the opportunity to inspect the Government property as specified in the solicitation.

(b) The Government bears no responsibility for repair or replacement of any lost, damaged or destroyed Government property. If any or all of the Government property is lost, damaged or destroyed or becomes no longer usable, the Contractor shall be responsible for replacement of the property at Contractor expense. The Contractor shall have title to all replacement property and shall continue to be responsible for contract performance.

(c) Unless the Contracting Officer determines otherwise, the Government abandons all rights and title to unserviceable and scrap property resulting from contract performance. Upon notification to the Contracting Officer, the Contractor shall remove such property from the Government premises and dispose of it at Contractor expense.

(d) Except as provided in this clause, Government property furnished under this contract shall be governed by the Government Property clause of this contract.

(e) Government property provided under this clause:

TO BE ENTERED AT TASK ORDER

(End of clause)

52.246-12 INSPECTION OF CONSTRUCTION (AUG 1996)

(a) Definition. "Work" includes, but is not limited to, materials, workmanship, and manufacture and fabrication of components.

(b) The Contractor shall maintain an adequate inspection system and perform such inspections as will ensure that the work performed under the contract conforms to contract requirements. The Contractor shall maintain complete inspection records and make them available to the Government. All work shall be conducted under the general direction of the Contracting Officer and is subject to Government inspection and test at all places and at all reasonable times before acceptance to ensure strict compliance with the terms of the contract.

(c) Government inspections and tests are for the sole benefit of the Government and do not--

(1) Relieve the Contractor of responsibility for providing adequate quality control measures;

(2) Relieve the Contractor of responsibility for damage to or loss of the material before acceptance;

(3) Constitute or imply acceptance; or

(4) Affect the continuing rights of the Government after acceptance of the completed work under paragraph (i) of this section.

(d) The presence or absence of a Government inspector does not relieve the Contractor from any contract requirement, nor is the inspector authorized to change any term or condition of the specification without the Contracting Officer's written authorization.

(e) The Contractor shall promptly furnish, at no increase in contract price, all facilities, labor, and material reasonably needed for performing such safe and convenient inspections and tests as may be required by the

Contracting Officer. The Government may charge to the Contractor any additional cost of inspection or test when work is not ready at the time specified by the Contractor for inspection or test, or when prior rejection makes reinspection or retest necessary. The Government shall perform all inspections and tests in a manner that will not unnecessarily delay the work. Special, full size, and performance tests shall be performed as described in the contract.

(f) The Contractor shall, without charge, replace or correct work found by the Government not to conform to contract requirements, unless in the public interest the Government consents to accept the work with an appropriate adjustment in contract price. The Contractor shall promptly segregate and remove rejected material from the premises.

(g) If the Contractor does not promptly replace or correct rejected work, the Government may (1) by contract or otherwise, replace or correct the work and charge the cost to the Contractor or (2) terminate for default the Contractor's right to proceed.

(h) If, before acceptance of the entire work, the Government decides to examine already completed work by removing it or tearing it out, the Contractor, on request, shall promptly furnish all necessary facilities, labor, and material. If the work is found to be defective or nonconforming in any material respect due to the fault of the Contractor or its subcontractors, the Contractor shall defray the expenses of the examination and of satisfactory reconstruction. However, if the work is found to meet contract requirements, the Contracting Officer shall make an equitable adjustment for the additional services involved in the examination and reconstruction, including, if completion of the work was thereby delayed, an extension of time.

(i) Unless otherwise specified in the contract, the Government shall accept, as promptly as practicable after completion and inspection, all work required by the contract or that portion of the work the Contracting Officer determines can be accepted separately. Acceptance shall be final and conclusive except for latent defects, fraud, gross mistakes amounting to fraud, or the Government's rights under any warranty or guarantee.

(End of clause)

52.246-16 RESPONSIBILITY FOR SUPPLIES (APR 1984)

(a) Title to supplies furnished under this contract shall pass to the Government upon formal acceptance, regardless of when or where the Government takes physical possession, unless the contract specifically provides for earlier passage of title.

(b) Unless the contract specifically provides otherwise, risk of loss of or damage to supplies shall remain with the Contractor until, and shall pass to the Government upon--

(1) Delivery of the supplies to a carrier, if transportation is f.o.b. origin; or

(2) Acceptance by the Government or delivery of the supplies to the Government at the destination specified in the contract, whichever is later, if transportation is f.o.b. destination.

(c) Paragraph (b) of this section shall not apply to supplies that so fail to conform to contract requirements as to give a right of rejection. The risk of loss of or damage to such nonconforming supplies remains with the Contractor until cure or acceptance. After cure or acceptance, paragraph (b) of this section shall apply.

(d) Under paragraph (b) of this section, the Contractor shall not be liable for loss of or damage to supplies caused by the negligence of officers, agents, or employees of the Government acting within the scope of their employment.

(End of clause)

52.246-19 WARRANTY OF SYSTEMS AND EQUIPMENT UNDER PERFORMANCE SPECIFICATIONS
OR DESIGN CRITERIA (MAY 2001) - ALTERNATE II (APR 1984)

(a) Definitions. As used in this clause--

Acceptance, means the act of an authorized representative of the Government by which the Government assumes for itself, or as an agent of another, ownership of existing and identified supplies, or approves specific services rendered, as partial or complete performance of the contract.

Defect, means any condition or characteristic in any supplies or services furnished by the Contractor under the contract that is not in compliance with the requirements of the contract.

Supplies, means the end items furnished by the Contractor and related services required under this contract. Except when this contract includes the clause entitled Warranty of Data, supplies also means "data."

(b) Contractor's obligations. (1) The Contractor's warranties under this clause shall apply only to those defects discovered by either the Government or the Contractor [Contracting Officer shall state the warranty period; e.g., "at the time of delivery;" "within 45 days after delivery," or the specified event whose occurrence will terminate the warranty period; e.g., the number of miles or hours of use, or combination of any applicable events or periods of time.]

(2) If the Contractor becomes aware at any time before acceptance by the Government (whether before or after tender to the Government) that a defect exists in any supplies or services, the Contractor shall (i) promptly correct the defect, or (ii) promptly notify the Contracting Officer, in writing, of the defect, using the same procedures prescribed in paragraph (b)(3) of this clause.

(3) If the Contracting Officer determines that a defect exists in any of the supplies or services accepted by the Government under this contract, the Contracting Officer shall promptly notify the Contractor of the defect, in writing, within [Contracting Officer shall insert the specific period of time in which notice shall be given to the Contractor; e.g., "30 days after delivery of the nonconforming supplies;" "90 days of the last delivery under this contract;" or "90 days after discovery of the defect."] Upon timely notification of the existence of a defect, or if the Contractor independently discovers a defect in accepted supplies or services, the Contractor shall submit to the Contracting Officer, in writing, within [Contracting Officer shall insert period of time] a recommendation for corrective actions, together with supporting information in sufficient detail for the Contracting Officer to determine what corrective action, if any, shall be undertaken.

(4) The Contractor shall promptly comply with any timely written direction from the Contracting Officer to correct or partially correct a defect, at no increase in the contract price.

(5) The Contractor shall also prepare and furnish to the Contracting Officer data and reports applicable to any correction required under this clause (including revision and updating of all other affected data called for under this contract) at no increase in the contract price.

(6) In the event of timely notice of a decision not to correct or only to partially correct, the Contractor shall submit a technical and cost proposal within [Contracting Officer shall insert period of time] to amend the contract to permit acceptance of the affected supplies or services in accordance with the revised requirement, and an equitable reduction in the contract price shall promptly be negotiated by the parties and be reflected in a supplemental agreement to this contract.

(7) Any supplies or parts thereof corrected or furnished in replacement and any services reperformed shall also be subject to the conditions of this clause to the same extent as supplies or services initially accepted. The warranty, with respect to these supplies, parts, or services, shall be equal in duration to that set forth in paragraph (b)(1) of this clause, and shall run from the date of delivery of the corrected or replaced supplies.

(8) The Contractor shall not be responsible under this clause for the correction of defects in Government-furnished property, except for defects in installation, unless the Contractor performs, or is obligated to perform, any modifications or other work on such property. In that event, the Contractor shall be responsible for correction of defects that result from the modifications or other work.

(9) If the Government returns supplies to the Contractor for correction or replacement under this clause, the Contractor shall be liable for transportation charges up to an amount equal to the cost of transportation by the usual commercial method of shipment from the place of delivery specified in this contract (irrespective of the f.o.b. point or the point of acceptance) to the Contractor's plant and return to the place of delivery specified in this contract. The Contractor shall also bear the responsibility for the supplies while in transit.

(10) All implied warranties of merchantability and "fitness for a particular purpose" are excluded from any obligation under this contract.

(c) Remedies available to the Government. (1) The rights and remedies of the Government provided in this clause--

(i) Shall not be affected in any way by any terms or conditions of this contract concerning the conclusiveness of inspection and acceptance; and

(ii) Are in addition to, and do not limit, any rights afforded to the Government by any other clause of this contract.

(2) Within [Contracting Officer shall insert period of time] after receipt of the Contractor's recommendations for corrective action and adequate supporting information, the Contracting Officer, using sole discretion, shall give the Contractor written notice not to correct any defect, or to correct or partially correct any defect within a reasonable time at [Contracting Officer shall insert locations where corrections may be performed].

(3) In no event shall the Government be responsible for any extension or delays in the scheduled deliveries or periods of performance under this contract as a result of the Contractor's obligations to correct defects, nor shall there be any adjustment of the delivery schedule or period of performance as a result of the correction of defects unless provided by a supplemental agreement with adequate consideration.

(4) This clause shall not be construed as obligating the Government to increase the contract price.

(5)(i) The Contracting Officer shall give the Contractor a written notice specifying any failure or refusal of the Contractor to--

(A) Present a detailed recommendation for corrective action as required by paragraph (b)(3) of this clause;

(B) Correct defects as directed under paragraph (b)(4) of this clause; or

(C) Prepare and furnish data and reports as required by paragraph (b)(5) of this clause.

(ii) The notice shall specify a period of time following receipt of the notice by the Contractor in which the Contractor must remedy the failure or refusal specified in the notice.

(6) If the Contractor does not comply with the Contracting Officer's written notice in paragraph (c)(5)(i) of this clause, the Contracting Officer may by contract or otherwise--

(i) Obtain detailed recommendations for corrective action and either--

(A) Correct the supplies or services; or

(B) Replace the supplies or services, and if the Contractor fails to furnish timely disposition instructions, the Contracting Officer may dispose of the nonconforming supplies for the Contractor's account in a reasonable manner, in which case the Government is entitled to reimbursement from the Contractor, or from the proceeds, for the reasonable expenses of care and disposition, as well as for excess costs incurred or to be incurred;

(ii) Obtain applicable data and reports; and

(iii) Charge the Contractor for the costs incurred by the Government.

(7) All costs incurred or estimated to be incurred by the Contractor in complying with this clause shall be considered when negotiating the total final price under the Incentive Price Revision clause of this contract. After establishment of the total final price, Contractor compliance with this clause shall be at no increase in the total final price. Any equitable adjustments made under paragraph (b)(6) of this clause shall be governed by the paragraph entitled "Equitable Adjustments Under Other Clauses" in the Incentive Price Revision clause of this contract.

(End of clause)

52.246-21 WARRANTY OF CONSTRUCTION (MAR 1994)

(a) In addition to any other warranties in this contract, the Contractor warrants, except as provided in paragraph (i) of this clause, that work performed under this contract conforms to the contract requirements and is free of any defect in equipment, material, or design furnished, or workmanship performed by the Contractor or any subcontractor or supplier at any tier.

(b) This warranty shall continue for a period of 1 year from the date of final acceptance of the work. If the Government takes possession of any part of the work before final acceptance, this warranty shall continue for a period of 1 year from the date the Government takes possession.

(c) The Contractor shall remedy at the Contractor's expense any failure to conform, or any defect. In addition, the Contractor shall remedy at the Contractor's expense any damage to Government-owned or controlled real or personal property, when that damage is the result of--

(1) The Contractor's failure to conform to contract requirements; or

(2) Any defect of equipment, material, workmanship, or design furnished.

(d) The Contractor shall restore any work damaged in fulfilling the terms and conditions of this clause. The Contractor's warranty with respect to work repaired or replaced will run for 1 year from the date of repair or replacement.

(e) The Contracting Officer shall notify the Contractor, in writing, within a reasonable time after the discovery of any failure, defect, or damage.

(f) If the Contractor fails to remedy any failure, defect, or damage within a reasonable time after receipt of notice, the Government shall have the right to replace, repair, or otherwise remedy the failure, defect, or damage at the Contractor's expense.

(g) With respect to all warranties, express or implied, from subcontractors, manufacturers, or suppliers for work performed and materials furnished under this contract, the Contractor shall--

- (1) Obtain all warranties that would be given in normal commercial practice;
 - (2) Require all warranties to be executed, in writing, for the benefit of the Government, if directed by the Contracting Officer; and
 - (3) Enforce all warranties for the benefit of the Government, if directed by the Contracting Officer.
- (h) In the event the Contractor's warranty under paragraph (b) of this clause has expired, the Government may bring suit at its expense to enforce a subcontractor's, manufacturer's, or supplier's warranty.
- (i) Unless a defect is caused by the negligence of the Contractor or subcontractor or supplier at any tier, the Contractor shall not be liable for the repair of any defects of material or design furnished by the Government nor for the repair of any damage that results from any defect in Government-furnished material or design.
- (j) This warranty shall not limit the Government's rights under the Inspection and Acceptance clause of this contract with respect to latent defects, gross mistakes, or fraud.
- (End of clause)

52.247-63 PREFERENCE FOR U.S.-FLAG AIR CARRIERS (JUN 2003)

(a) Definitions. As used in this clause--

International air transportation means transportation by air between a place in the United States and a place outside the United States or between two places both of which are outside the United States.

United States means the 50 States, the District of Columbia, and outlying areas.

U.S.-flag air carrier means an air carrier holding a certificate under 49 U.S.C. Chapter 411.

(b) Section 5 of the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. 40118) (Fly America Act) requires that all Federal agencies and Government contractors and subcontractors use U.S.-flag air carriers for U.S. Government-financed international air transportation of personnel (and their personal effects) or property, to the extent that service by those carriers is available. It requires the Comptroller General of the United States, in the absence of satisfactory proof of the necessity for foreign-flag air transportation, to disallow expenditures from funds, appropriated or otherwise established for the account of the United States, for international air transportation secured aboard a foreign-flag air carrier if a U.S.-flag air carrier is available to provide such services.

(c) If available, the Contractor, in performing work under this contract, shall use U.S.-flag carriers for international air transportation of personnel (and their personal effects) or property.

(d) In the event that the Contractor selects a carrier other than a U.S.-flag air carrier for international air transportation, the Contractor shall include a statement on vouchers involving such transportation essentially as follows:

STATEMENT OF UNAVAILABILITY OF U.S.-FLAG AIR CARRIERS

International air transportation of persons (and their personal effects) or property by U.S.-flag air carrier was not available or it was necessary to use foreign-flag air carrier service for the following reasons (see section 47.403 of the Federal Acquisition Regulation): [State reasons]: _____

(End of statement)

(e) The Contractor shall include the substance of this clause, including this paragraph (e), in each subcontract or purchase under this contract that may involve international air transportation.

(End of clause)

52.248-1 VALUE ENGINEERING (FEB 2000)

(a) General. The Contractor is encouraged to develop, prepare, and submit value engineering change proposals (VECP's) voluntarily. The Contractor shall share in any net acquisition savings realized from accepted VECP's, in accordance with the incentive sharing rates in paragraph (f) below.

(b) Definitions. "Acquisition savings," as used in this clause, means savings resulting from the application of a VECP to contracts awarded by the same contracting office or its successor for essentially the same unit. Acquisition savings include--

- (1) Instant contract savings, which are the net cost reductions on this, the instant contract, and which are equal to the instant unit cost reduction multiplied by the number of instant contract units affected by the VECP, less the Contractor's allowable development and implementation costs;
- (2) Concurrent contract savings, which are net reductions in the prices of other contracts that are definitized and ongoing at the time the VECP is accepted; and
- (3) Future contract savings, which are the product of the future unit cost reduction multiplied by the number of future contract units in the sharing base. On an instant contract, future contract savings include savings on increases in quantities after VECP acceptance that are due to contract modifications, exercise of options, additional orders, and funding of subsequent year requirements on a multiyear contract.

"Collateral costs," as used in this clause, means agency cost of operation, maintenance, logistic support, or Government-furnished property.

"Collateral savings," as used in this clause, means those measurable net reductions resulting from a VECP in the agency's overall projected collateral costs, exclusive of acquisition savings, whether or not the acquisition cost changes.

"Contracting office" includes any contracting office that the acquisition is transferred to, such as another branch of the agency or another agency's office that is performing a joint acquisition action.

"Contractor's development and implementation costs," as used in this clause, means those costs the Contractor incurs on a VECP specifically in developing, testing, preparing, and submitting the VECP, as well as those costs the Contractor incurs to make the contractual changes required by Government acceptance of a VECP.

"Future unit cost reduction," as used in this clause, means the instant unit cost reduction adjusted as the Contracting Officer considers necessary for projected learning or changes in quantity during the sharing period. It is calculated at the time the VECP is accepted and applies either (1) throughout the sharing period, unless the Contracting Officer

decides that recalculation is necessary because conditions are significantly different from those previously anticipated or (2) to the calculation of a lump-sum payment, which cannot later be revised.

"Government costs," as used in this clause, means those agency costs that result directly from developing and implementing the VECP, such as any net increases in the cost of testing, operations, maintenance, and logistics support. The term does not include the normal administrative costs of processing the VECP or any increase in this contract's cost or price resulting from negative instant contract savings.

"Instant contract," as used in this clause, means this contract, under which the VECP is submitted. It does not include increases in quantities after acceptance of the VECP that are due to contract modifications, exercise of options, or additional orders. If this is a multiyear contract, the term does not include quantities funded after VECP acceptance. If this contract is a fixed-price contract with prospective price redetermination, the term refers to the period for which firm prices have been established.

"Instant unit cost reduction" means the amount of the decrease in unit cost of performance (without deducting any Contractor's development or implementation costs) resulting from using the VECP on this, the instant contract. If this is a service contract, the instant unit cost reduction is normally equal to the number of hours per line-item task saved by using the VECP on this contract, multiplied by the appropriate contract labor rate.

"Negative instant contract savings" means the increase in the cost or price of this contract when the acceptance of a VECP results in an excess of the Contractor's allowable development and implementation costs over the product of the instant unit cost reduction multiplied by the number of instant contract units affected.

"Net acquisition savings" means total acquisition savings, including instant, concurrent, and future contract savings, less Government costs.

"Sharing base," as used in this clause, means the number of affected end items on contracts of the contracting office accepting the VECP.

Sharing period, as used in this clause, means the period beginning with acceptance of the first unit incorporating the VECP and ending at a calendar date or event determined by the contracting officer for each VECP.

"Unit," as used in this clause, means the item or task to which the Contracting Officer and the Contractor agree the VECP applies.

"Value engineering change proposal (VECP)" means a proposal that--

- (1) Requires a change to this, the instant contract, to implement; and
- (2) Results in reducing the overall projected cost to the agency without impairing essential functions or characteristics; provided, that it does not involve a change--
 - (i) In deliverable end item quantities only;
 - (ii) In research and development (R&D) end items or R&D test quantities that is due solely to results of previous testing under this contract; or
 - (iii) To the contract type only.
- (c) VECP preparation. As a minimum, the Contractor shall include in each VECP the information described in subparagraphs (1) through (8) below. If the proposed change is affected by contractually required configuration management or similar procedures, the instructions in those procedures relating to format, identification, and priority assignment shall govern VECP preparation. The VECP shall include the following:

- (1) A description of the difference between the existing contract requirement and the proposed requirement, the comparative advantages and disadvantages of each, a justification when an item's function or characteristics are being altered, the effect of the change on the end item's performance, and any pertinent objective test data.
 - (2) A list and analysis of the contract requirements that must be changed if the VECP is accepted, including any suggested specification revisions.
 - (3) Identification of the unit to which the VECP applies.
 - (4) A separate, detailed cost estimate for (i) the affected portions of the existing contract requirement and (ii) the VECP. The cost reduction associated with the VECP shall take into account the Contractor's allowable development and implementation costs, including any amount attributable to subcontracts under the Subcontracts paragraph of this clause, below.
 - (5) A description and estimate of costs the Government may incur in implementing the VECP, such as test and evaluation and operating and support costs.
 - (6) A prediction of any effects the proposed change would have on collateral costs to the agency.
 - (7) A statement of the time by which a contract modification accepting the VECP must be issued in order to achieve the maximum cost reduction, noting any effect on the contract completion time or delivery schedule.
 - (8) Identification of any previous submissions of the VECP, including the dates submitted, the agencies and contract numbers involved, and previous Government actions, if known.
- (d) Submission. The Contractor shall submit VECP's to the Contracting Officer, unless this contract states otherwise. If this contract is administered by other than the contracting office, the Contractor shall submit a copy of the VECP simultaneously to the Contracting Officer and to the Administrative Contracting Officer.
- (e) Government action. (1) The Contracting Officer will notify the Contractor of the status of the VECP within 45 calendar days after the contracting office receives it. If additional time is required, the Contracting Officer will notify the Contractor within the 45-day period and provide the reason for the delay and the expected date of the decision. The Government will process VECP's expeditiously; however, it shall not be liable for any delay in acting upon a VECP.
- (2) If the VECP is not accepted, the Contracting Officer will notify the Contractor in writing, explaining the reasons for rejection. The Contractor may withdraw any VECP, in whole or in part, at any time before it is accepted by the Government. The Contracting Officer may require that the Contractor provide written notification before undertaking significant expenditures for VECP effort.
- (3) Any VECP may be accepted, in whole or in part, by the Contracting Officer's award of a modification to this contract citing this clause and made either before or within a reasonable time after contract performance is completed. Until such a contract modification applies a VECP to this contract, the Contractor shall perform in accordance with the existing contract. The decision to accept or reject all or part of any VECP is a unilateral decision made solely at the discretion of the Contracting Officer.
- (f) Sharing rates. If a VECP is accepted, the Contractor shall share in net acquisition savings according to the percentages shown in the table below. The percentage paid the Contractor depends upon (1) this contract's type (fixed-price, incentive, or cost-reimbursement), (2) the sharing arrangement specified in paragraph (a) above (incentive, program requirement, or a combination as delineated in the Schedule), and (3) the source of the savings (the instant contract, or concurrent and future contracts), as follows:

CONTRACTOR'S SHARE OF NET ACQUISITION SAVINGS
(Figures in percent)

| Contract Type | Incentive (Voluntary) | | Program Requirement (Mandatory) | |
|---|-----------------------|-------------------------------------|---------------------------------|-------------------------------------|
| | Instant Contract Rate | Concurrent and Future Contract Rate | Instant Contract Rate | Concurrent and Future Contract Rate |
| Fixed-price (includes fixed-price-award-fee; excludes other fixed-price incentive contracts) | (1) 50 | (1) 50 | (1) 25 | 25 |
| Incentive (fixed-price or cost) (other than award fee) | (2) | (1) 50 | (2) | 25 |
| Cost-reimbursement (includes cost-plus-award-fee; excludes other cost-type incentive Contracts) | (3) 25 | (3) 25 | 15 | 15 |

- (1) The Contracting Officer may increase the Contractor's sharing rate to as high as 75 percent for each VECP.
(2) Same sharing arrangement as the contract's profit or fee adjustment formula.
(3) The Contracting Officer may increase the Contractor's sharing rate to as high as 50 percent for each VECP.

(g) Calculating net acquisition savings.

(1) Acquisition savings are realized when (i) the cost or price is reduced on the instant contract, (ii) reductions are negotiated in concurrent contracts, (iii) future contracts are awarded, or (iv) agreement is reached on a lump-sum payment for future contract savings (see subparagraph (i)(4) below). Net acquisition savings are first realized, and the Contractor shall be paid a share, when Government costs and any negative instant contract savings have been fully offset against acquisition savings.

(2) Except in incentive contracts, Government costs and any price or cost increases resulting from negative instant contract savings shall be offset against acquisition savings each time such savings are realized until they are fully offset. Then, the Contractor's share is calculated by multiplying net acquisition savings by the appropriate Contractor's percentage sharing rate (see paragraph (f) above). Additional Contractor shares of net acquisition savings shall be paid to the Contractor at the time realized.

(3) If this is an incentive contract, recovery of Government costs on the instant contract shall be deferred and offset against concurrent and future contract savings. The Contractor shall share through the contract incentive structure in savings on the instant contract items affected. Any negative instant contract savings shall be added to the target cost or to the target price and ceiling price, and the amount shall be offset against concurrent and future contract savings.

(4) If the Government does not receive and accept all items on which it paid the Contractor's share, the Contractor shall reimburse the Government for the proportionate share of these payments.

(h) Contract adjustment. The modification accepting the VECP (or a subsequent modification issued as soon as possible after any negotiations are completed) shall--

- (1) Reduce the contract price or estimated cost by the amount of instant contract savings, unless this is an incentive contract;
 - (2) When the amount of instant contract savings is negative, increase the contract price, target price and ceiling price, target cost, or estimated cost by that amount;
 - (3) Specify the Contractor's dollar share per unit on future contracts, or provide the lump-sum payment;
 - (4) Specify the amount of any Government costs or negative instant contract savings to be offset in determining net acquisition savings realized from concurrent or future contract savings; and
 - (5) Provide the Contractor's share of any net acquisition savings under the instant contract in accordance with the following:
 - (i) Fixed-price contracts--add to contract price.
 - (ii) Cost-reimbursement contracts--add to contract fee.
- (i) Concurrent and future contract savings.
- (1) Payments of the Contractor's share of concurrent and future contract savings shall be made by a modification to the instant contract in accordance with subparagraph (h)(5) above. For incentive contracts, shares shall be added as a separate firm-fixed-price line item on the instant contract. The Contractor shall maintain records adequate to identify the first delivered unit for 3 years after final payment under this contract.
 - (2) The Contracting Officer shall calculate the Contractor's share of concurrent contract savings by (i) subtracting from the reduction in price negotiated on the concurrent contract any Government costs or negative instant contract savings not yet offset and (ii) multiplying the result by the Contractor's sharing rate.
 - (3) The Contracting Officer shall calculate the Contractor's share of future contract savings by (i) multiplying the future unit cost reduction by the number of future contract units scheduled for delivery during the sharing period, (ii) subtracting any Government costs or negative instant contract savings not yet offset, and (iii) multiplying the result by the Contractor's sharing rate.
 - (4) When the Government wishes and the Contractor agrees, the Contractor's share of future contract savings may be paid in a single lump sum rather than in a series of payments over time as future contracts are awarded. Under this alternate procedure, the future contract savings may be calculated when the VECP is accepted, on the basis of the Contracting Officer's forecast of the number of units that will be delivered during the sharing period. The Contractor's share shall be included in a modification to this contract (see subparagraph (h)(3) above) and shall not be subject to subsequent adjustment.
 - (5) Alternate no-cost settlement method. When, in accordance with subsection 48.104-4 of the Federal Acquisition Regulation, the Government and the Contractor mutually agree to use the no-cost settlement method, the following applies:
 - (i) The Contractor will keep all the savings on the instant contract and on its concurrent contracts only.
 - (ii) The Government will keep all the savings resulting from concurrent contracts placed on other sources, savings from all future contracts, and all collateral savings.
 - (j) Collateral savings. If a VECP is accepted, the Contracting Officer will increase the instant contract amount, as specified in paragraph (h)(5) of this clause, by a rate from 20 to 100 percent, as determined by the Contracting Officer, of any projected collateral savings determined to be realized in a typical year of use after subtracting any

Government costs not previously offset. However, the Contractor's share of collateral savings will not exceed the contract's firm-fixed-price, target price, target cost, or estimated cost, at the time the VECP is accepted, or \$100,000, whichever is greater. The Contracting Officer will be the sole determiner of the amount of collateral savings.

(k) Relationship to other incentives. Only those benefits of an accepted VECP not rewardable under performance, design-to-cost (production unit cost, operating and support costs, reliability and maintainability), or similar incentives shall be rewarded under this clause. However, the targets of such incentives affected by the VECP shall not be adjusted because of VECP acceptance. If this contract specifies targets but provides no incentive to surpass them, the value engineering sharing shall apply only to the amount of achievement better than target.

(l) Subcontracts. The Contractor shall include an appropriate value engineering clause in any subcontract of \$100,000 or more and may include one in subcontracts of lesser value. In calculating any adjustment in this contract's price for instant contract savings (or negative instant contract savings), the Contractor's allowable development and implementation costs shall include any subcontractor's allowable development and implementation costs, and any value engineering incentive payments to a subcontractor, clearly resulting from a VECP accepted by the Government under this contract. The Contractor may choose any arrangement for subcontractor value engineering incentive payments; provided, that the payments shall not reduce the Government's share of concurrent or future contract savings or collateral savings.

(m) Data. The Contractor may restrict the Government's right to use any part of a VECP or the supporting data by marking the following legend on the affected parts:

"These data, furnished under the Value Engineering clause of contract , shall not be disclosed outside the Government or duplicated, used, or disclosed, in whole or in part, for any purpose other than to evaluate a value engineering change proposal submitted under the clause. This restriction does not limit the Government's right to use information contained in these data if it has been obtained or is otherwise available from the Contractor or from another source without limitations."

If a VECP is accepted, the Contractor hereby grants the Government unlimited rights in the VECP and supporting data, except that, with respect to data qualifying and submitted as limited rights technical data, the Government shall have the rights specified in the contract modification implementing the VECP and shall appropriately mark the data. (The terms "unlimited rights" and "limited rights" are defined in Part 27 of the Federal Acquisition Regulation.)

(End of clause)

52.248-3 VALUE ENGINEERING--CONSTRUCTION (SEP 2006)

(a) General. The Contractor is encouraged to develop, prepare, and submit value engineering change proposals (VECP's) voluntarily. The Contractor shall share in any instant contract savings realized from accepted VECP's, in accordance with paragraph (f) below.

(b) Definitions. "Collateral costs," as used in this clause, means agency costs of operation, maintenance, logistic support, or Government-furnished property.

"Collateral savings," as used in this clause, means those measurable net reductions resulting from a VECP in the agency's overall projected collateral costs, exclusive of acquisition savings, whether or not the acquisition cost changes.

"Contractor's development and implementation costs," as used in this clause, means those costs the Contractor incurs on a VECP specifically in developing, testing, preparing, and submitting the VECP, as well as those costs the Contractor incurs to make the contractual changes required by Government acceptance of a VECP.

"Government costs," as used in this clause, means those agency costs that result directly from developing and implementing the VECP, such as any net increases in the cost of testing, operations, maintenance, and logistic support. The term does not include the normal administrative costs of processing the VECP.

"Instant contract savings," as used in this clause, means the estimated reduction in Contractor cost of performance resulting from acceptance of the VECP, minus allowable Contractor's development and implementation costs, including subcontractors' development and implementation costs (see paragraph (h) below).

"Value engineering change proposal (VECP)" means a proposal that--

(1) Requires a change to this, the instant contract, to implement; and

(2) Results in reducing the contract price or estimated cost without impairing essential functions or characteristics; provided, that it does not involve a change--

(i) In deliverable end item quantities only; or

(ii) To the contract type only.

(c) VECP preparation. As a minimum, the Contractor shall include in each VECP the information described in subparagraphs(c) (1) through (7) below. If the proposed change is affected by contractually required configuration management or similar procedures, the instructions in those procedures relating to format, identification, and priority assignment shall govern VECP preparation. The VECP shall include the following:

(1) A description of the difference between the existing contract requirement and that proposed, the comparative advantages and disadvantages of each, a justification when an item's function or characteristics are being altered, and the effect of the change on the end item's performance.

(2) A list and analysis of the contract requirements that must be changed if the VECP is accepted, including any suggested specification revisions.

(3) A separate, detailed cost estimate for

(i) the affected portions of the existing contract requirement and

(ii) the VECP. The cost reduction associated with the VECP shall take into account the Contractor's allowable development and implementation costs, including any amount attributable to subcontracts under paragraph (h) below.

(4) A description and estimate of costs the Government may incur in implementing the VECP, such as test and evaluation and operating and support costs.

(5) A prediction of any effects the proposed change would have on collateral costs to the agency.

(6) A statement of the time by which a contract modification accepting the VECP must be issued in order to achieve the maximum cost reduction, noting any effect on the contract completion time or delivery schedule.

(7) Identification of any previous submissions of the VECP, including the dates submitted, the agencies and contract numbers involved, and previous Government actions, if known.

(d) Submission. The Contractor shall submit VECP's to the Resident Engineer at the worksite, with a copy to the Contracting Officer.

(e) Government action.

(1) The Contracting Officer will notify the Contractor of the status of the VECP within 45 calendar days after the contracting office receives it. If additional time is required, the Contracting Officer will notify the Contractor within the 45-day period and provide the reason for the delay and the expected date of the decision. The Government will process VECP's expeditiously; however, it shall not be liable for any delay in acting upon a VECP.

If the VECP is not accepted, the Contracting Officer will notify the Contractor in writing, explaining the reasons for rejection. The Contractor may withdraw any VECP, in whole or in part, at any time before it is accepted by the Government. The Contracting Officer may require that the Contractor provide written notification before undertaking significant expenditures for VECP effort.

Any VECP may be accepted, in whole or in part, by the Contracting Officer's award of a modification to this contract citing this clause. The Contracting Officer may accept the VECP, even though an agreement on price reduction has not been reached, by issuing the Contractor a notice to proceed with the change. Until a notice to proceed is issued or a contract modification applies a VECP to this contract, the Contractor shall perform in accordance with the existing contract. The decision to accept or reject all or part of any VECP is a unilateral decision made solely at the discretion of the Contracting Officer.

(f) Sharing.

(1) Rates. The Government's share of savings is determined by subtracting Government costs from instant contract savings and multiplying the result by

(i) 45 percent for fixed-price contracts or

(ii) 75 percent for cost-reimbursement contracts.

(2) Payment. Payment of any share due the Contractor for use of a VECP on this contract shall be authorized by a modification to this contract to--

(i) Accept the VECP;

(ii) Reduce the contract price or estimated cost by the amount of instant contract savings; and

(iii) Provide the Contractor's share of savings by adding the amount calculated to the contract price or fee.

(g) Collateral savings. If a VECP is accepted, the Contracting Officer will increase the instant contract amount by 20 percent of any projected collateral savings determined to be realized in a typical year of use after subtracting any Government costs not previously offset. However, the Contractor's share of collateral savings will not exceed the contract's firm-fixed-price or estimated cost, at the time the VECP is accepted, or \$100,000, whichever is greater. The Contracting Officer is the sole determiner of the amount of collateral savings.

(h) Subcontracts. The Contractor shall include an appropriate value engineering clause in any subcontract of \$55,000 or more and may include one in subcontracts of lesser value. In computing any adjustment in this contract's price under paragraph (f) above, the Contractor's allowable development and implementation costs shall include any subcontractor's allowable development and implementation costs clearly resulting from a VECP accepted by the Government under this contract, but shall exclude any value engineering incentive payments to a subcontractor. The Contractor may choose any arrangement for subcontractor value engineering incentive payments; provided, that these payments shall not reduce the Government's share of the savings resulting from the VECP.

(i) Data. The Contractor may restrict the Government's right to use any part of a VECP or the supporting data by marking the following legend on the affected parts:

"These data, furnished under the Value Engineering-- Construction clause of contract , shall not be disclosed outside the Government or duplicated, used, or disclosed, in whole or in part, for any purpose other than to evaluate a value engineering change proposal submitted under the clause. This restriction does not limit the Government's right to use information contained in these data if it has been obtained or is otherwise available from the Contractor or from another source without limitations." If a VECP is accepted, the Contractor hereby grants the Government unlimited rights in the VECP and supporting data, except that, with respect to data qualifying and submitted as limited rights technical data, the Government shall have the rights specified in the contract modification implementing the VECP and shall appropriately mark the data. (The terms "unlimited rights" and "limited rights" are defined in Part 27 of the Federal Acquisition Regulation.)

(End of clause)

52.249-2 TERMINATION FOR CONVENIENCE OF THE GOVERNMENT (FIXED-PRICE) (MAY 2004)

(a) The Government may terminate performance of work under this contract in whole or, from time to time, in part if the Contracting Officer determines that a termination is in the Government's interest. The Contracting Officer shall terminate by delivering to the Contractor a Notice of Termination specifying the extent of termination and the effective date.

(b) After receipt of a Notice of Termination, and except as directed by the Contracting Officer, the Contractor shall immediately proceed with the following obligations, regardless of any delay in determining or adjusting any amounts due under this clause:

(1) Stop work as specified in the notice.

(2) Place no further subcontracts or orders (referred to as subcontracts in this clause) for materials, services, or facilities, except as necessary to complete the continued portion of the contract.

(3) Terminate all subcontracts to the extent they relate to the work terminated.

(4) Assign to the Government, as directed by the Contracting Officer, all right, title, and interest of the Contractor under the subcontracts terminated, in which case the Government shall have the right to settle or to pay any termination settlement proposal arising out of those terminations.

(5) With approval or ratification to the extent required by the Contracting Officer, settle all outstanding liabilities and termination settlement proposals arising from the termination of subcontracts; the approval or ratification will be final for purposes of this clause.

(6) As directed by the Contracting Officer, transfer title and deliver to the Government (i) the fabricated or unfabricated parts, work in process, completed work, supplies, and other material produced or acquired for the work terminated, and (ii) the completed or partially completed plans, drawings, information, and other property that, if the contract had been completed, would be required to be furnished to the Government.

(7) Complete performance of the work not terminated.

(8) Take any action that may be necessary, or that the Contracting Officer may direct, for the protection and preservation of the property related to this contract that is in the possession of the Contractor and in which the Government has or may acquire an interest.

(9) Use its best efforts to sell, as directed or authorized by the Contracting Officer, any property of the types referred to in subparagraph (b)(6) of this clause; provided, however, that the Contractor (i) is not required to extend credit to

any purchaser and (ii) may acquire the property under the conditions prescribed by, and at prices approved by, the Contracting Officer. The proceeds of any transfer or disposition will be applied to reduce any payments to be made by the Government under this contract, credited to the price or cost of the work, or paid in any other manner directed by the Contracting Officer.

(c) The Contractor shall submit complete termination inventory schedules no later than 120 days from the effective date of termination, unless extended in writing by the Contracting Officer upon written request of the Contractor within this 120-day period.

(d) After expiration of the plant clearance period as defined in Subpart 49.001 of the Federal Acquisition Regulation, the Contractor may submit to the Contracting Officer a list, certified as to quantity and quality, of termination inventory not previously disposed of, excluding items authorized for disposition by the Contracting Officer. The Contractor may request the Government to remove those items or enter into an agreement for their storage. Within 15 days, the Government will accept title to those items and remove them or enter into a storage agreement. The Contracting Officer may verify the list upon removal of the items, or if stored, within 45 days from submission of the list, and shall correct the list, as necessary, before final settlement.

(e) After termination, the Contractor shall submit a final termination settlement proposal to the Contracting Officer in the form and with the certification prescribed by the Contracting Officer. The Contractor shall submit the proposal promptly, but no later than 1 year from the effective date of termination, unless extended in writing by the Contracting Officer upon written request of the Contractor within this 1-year period. However, if the Contracting Officer determines that the facts justify it, a termination settlement proposal may be received and acted on after 1 year or any extension. If the Contractor fails to submit the proposal within the time allowed, the Contracting Officer may determine, on the basis of information available, the amount, if any, due the Contractor because of the termination and shall pay the amount determined.

(f) Subject to paragraph (e) of this clause, the Contractor and the Contracting Officer may agree upon the whole or any part of the amount to be paid or remaining to be paid because of the termination. The amount may include a reasonable allowance for profit on work done. However, the agreed amount, whether under this paragraph (g) or paragraph (g) of this clause, exclusive of costs shown in subparagraph (g)(3) of this clause, may not exceed the total contract price as reduced by (1) the amount of payments previously made and (2) the contract price of work not terminated. The contract shall be modified, and the Contractor paid the agreed amount. Paragraph (g) of this clause shall not limit, restrict, or affect the amount that may be agreed upon to be paid under this paragraph.

(g) If the Contractor and the Contracting Officer fail to agree on the whole amount to be paid because of the termination of work, the Contracting Officer shall pay the Contractor the amounts determined by the Contracting Officer as follows, but without duplication of any amounts agreed on under paragraph (f) of this clause:

(1) The contract price for completed supplies or services accepted by the Government (or sold or acquired under subparagraph (b)(9) of this clause) not previously paid for, adjusted for any saving of freight and other charges.

(2) The total of--

(i) The costs incurred in the performance of the work terminated, including initial costs and preparatory expense allocable thereto, but excluding any costs attributable to supplies or services paid or to be paid under subparagraph (f)(1) of this clause;

(ii) The cost of settling and paying termination settlement proposals under terminated subcontracts that are properly chargeable to the terminated portion of the contract if not included in subdivision (g)(2)(i) of this clause; and

(iii) A sum, as profit on subdivision (g)(2)(i) of this clause, determined by the Contracting Officer under 49.202 of the Federal Acquisition Regulation, in effect on the date of this contract, to be fair and reasonable; however, if it appears that the Contractor would have sustained a loss on the entire contract had it been completed, the Contracting

Officer shall allow no profit under this subdivision (iii) and shall reduce the settlement to reflect the indicated rate of loss.

(3) The reasonable costs of settlement of the work terminated, including--

(i) Accounting, legal, clerical, and other expenses reasonably necessary for the preparation of termination settlement proposals and supporting data;

(ii) The termination and settlement of subcontracts (excluding the amounts of such settlements); and

(iii) Storage, transportation, and other costs incurred, reasonably necessary for the preservation, protection, or disposition of the termination inventory.

(h) Except for normal spoilage, and except to the extent that the Government expressly assumed the risk of loss, the Contracting Officer shall exclude from the amounts payable to the Contractor under paragraph (g) of this clause, the fair value, as determined by the Contracting Officer, of property that is destroyed, lost, stolen, or damaged so as to become undeliverable to the Government or to a buyer.

(i) The cost principles and procedures of Part 31 of the Federal Acquisition Regulation, in effect on the date of this contract, shall govern all costs claimed, agreed to, or determined under this clause.

(j) The Contractor shall have the right of appeal, under the Disputes clause, from any determination made by the Contracting Officer under paragraph (e), (g), or (l) of this clause, except that if the Contractor failed to submit the termination settlement proposal or request for equitable adjustment within the time provided in paragraph (e) or (l), respectively, and failed to request a time extension, there is no right of appeal.

(k) In arriving at the amount due the Contractor under this clause, there shall be deducted--

(1) All unliquidated advance or other payments to the Contractor under the terminated portion of this contract;

(2) Any claim which the Government has against the Contractor under this contract; and

(3) The agreed price for, or the proceeds of sale of, materials, supplies, or other things acquired by the Contractor or sold under the provisions of this clause and not recovered by or credited to the Government.

(l) If the termination is partial, the Contractor may file a proposal with the Contracting Officer for an equitable adjustment of the price(s) of the continued portion of the contract. The Contracting Officer shall make any equitable adjustment agreed upon. Any proposal by the Contractor for an equitable adjustment under this clause shall be requested within 90 days from the effective date of termination unless extended in writing by the Contracting Officer.

(m)(1) The Government may, under the terms and conditions it prescribes, make partial payments and payments against costs incurred by the Contractor for the terminated portion of the contract, if the Contracting Officer believes the total of these payments will not exceed the amount to which the Contractor will be entitled.

(2) If the total payments exceed the amount finally determined to be due, the Contractor shall repay the excess to the Government upon demand, together with interest computed at the rate established by the Secretary of the Treasury under 50 U.S.C. App. 1215(b)(2). Interest shall be computed for the period from the date the excess payment is received by the Contractor to the date the excess is repaid. Interest shall not be charged on any excess payment due to a reduction in the Contractor's termination settlement proposal because of retention or other disposition of termination inventory until 10 days after the date of the retention or disposition, or a later date determined by the Contracting Officer because of the circumstances.

(n) Unless otherwise provided in this contract or by statute, the Contractor shall maintain all records and documents relating to the terminated portion of this contract for 3 years after final settlement. This includes all books and other

evidence bearing on the Contractor's costs and expenses under this contract. The Contractor shall make these records and documents available to the Government, at the Contractor's office, at all reasonable times, without any direct charge. If approved by the Contracting Officer, photographs, microphotographs, or other authentic reproductions may be maintained instead of original records and documents.

(End of clause)

52.249-10 DEFAULT (FIXED-PRICE CONSTRUCTION) (APR 1984)

(a) If the Contractor refuses or fails to prosecute the work or any separable part, with the diligence that will insure its completion within the time specified in this contract including any extension, or fails to complete the work within this time, the Government may, by written notice to the Contractor, terminate the right to proceed with the work (or the separable part of the work) that has been delayed. In this event, the Government may take over the work and complete it by contract or otherwise, and may take possession of and use any materials, appliances, and plant on the work site necessary for completing the work. The Contractor and its sureties shall be liable for any damage to the Government resulting from the Contractor's refusal or failure to complete the work within the specified time, whether or not the Contractor's right to proceed with the work is terminated. This liability includes any increased costs incurred by the Government in completing the work.

(b) The Contractor's right to proceed shall not be terminated nor the Contractor charged with damages under this clause, if--

(1) The delay in completing the work arises from unforeseeable causes beyond the control and without the fault or negligence of the Contractor. Examples of such causes include

(i) acts of God or of the public enemy,

(ii) acts of the Government in either its sovereign or contractual capacity,

(iii) acts of another Contractor in the performance of a contract with the Government,

(iv) fires,

(v) floods,

(vi) epidemics,

(vii) quarantine restrictions,

(viii) strikes,

(ix) freight embargoes,

(x) unusually severe weather, or delays of subcontractors or suppliers at any tier arising from unforeseeable causes beyond the control and without the fault or negligence of both the Contractor and the subcontractors or suppliers; and

(2) The Contractor, within 10 days from the beginning of any delay (unless extended by the Contracting Officer), notifies the Contracting Officer in writing of the causes of delay. The Contracting Officer shall ascertain the facts and the extent of delay. If, in the judgment of the Contracting Officer, the findings of fact warrant such action, the time for completing the work shall be extended. The findings of the Contracting Officer shall be final and conclusive

on the parties, but subject to appeal under the Disputes clause.

(c) If, after termination of the Contractor's right to proceed, it is determined that the Contractor was not in default, or that the delay was excusable, the rights and obligations of the parties will be the same as if the termination had been issued for the convenience of the Government.

The rights and remedies of the Government in this clause are in addition to any other rights and remedies provided by law or under this contract.

(End of clause)

52.249-14 EXCUSABLE DELAYS (APR 1984)

(a) Except for defaults of subcontractors at any tier, the Contractor shall not be in default because of any failure to perform this contract under its terms if the failure arises from causes beyond the control and without the fault or negligence of the Contractor. Examples of these causes are (1) acts of God or of the public enemy, (2) acts of the Government in either its sovereign or contractual capacity, (3) fires, (4) floods, (5) epidemics, (6) quarantine restrictions, (7) strikes, (8) freight embargoes, and (9) unusually severe weather. In each instance, the failure to perform must be beyond the control and without the fault or negligence of the Contractor. "Default" includes failure to make progress in the work so as to endanger performance.

(b) If the failure to perform is caused by the failure of a subcontractor at any tier to perform or make progress, and if the cause of the failure was beyond the control of both the Contractor and subcontractor, and without the fault or negligence of either, the Contractor shall not be deemed to be in default, unless--

(1) The subcontracted supplies or services were obtainable from other sources;

(2) The Contracting Officer ordered the Contractor in writing to purchase these supplies or services from the other source; and

(3) The Contractor failed to comply reasonably with this order.

(c) Upon request of the Contractor, the Contracting Officer shall ascertain the facts and extent of the failure. If the Contracting Officer determines that any failure to perform results from one or more of the causes above, the delivery schedule shall be revised, subject to the rights of the Government under the termination clause of this contract.

(End of clause)

52.249-5000 BASIS FOR SETTLEMENT OF PROPOSALS

Actual costs will be used to determine equipment costs for a settlement proposal submitted on the total cost basis under FAR 49.206-2(b). In evaluating a terminations settlement proposal using the total cost basis, the following principles will be applied to determine allowable equipment costs:

(b) Actual costs for each piece of equipment, or groups of similar serial or series equipment, need not be available in the contractor's accounting records to determine total actual equipment costs.

(c) If equipment costs have been allocated to a contract using predetermined rates, those charges will be adjusted to actual costs.

(3) Recorded job costs adjusted for unallowable expenses will be used to determine equipment operating expenses.

(4) Ownership costs (depreciation) will be determined using the contractor's depreciation schedule (subject to the provisions of FAR 31.205-11).

(5) License, taxes, storage and insurance costs are normally recovered as an indirect expense and unless the contractor charges these costs directly to contracts, they will be recovered through the indirect expense rate.

(End of Clause)

52.249-5000 BASIS FOR SETTLEMENT OF PROPOSALS

52.252-2 CLAUSES INCORPORATED BY REFERENCE (FEB 1998)

This contract incorporates one or more clauses by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. Also, the full text of a clause may be accessed electronically at this/these address(es):

FAR at <http://www.arnet.gov/far/index.html>

DFARS at <http://farsite.hill.af.mil/VFDFARA.HTM>

EFARS AT <http://www.usace.army.mil/CECT/Pages/EFARS.aspx>

(End of clause)

52.252-4 ALTERATIONS IN CONTRACT (APR 1984)

Portions of this contract are altered as follows:

NONE

(End of clause)

52.253-1 COMPUTER GENERATED FORMS (JAN 1991)

(a) Any data required to be submitted on a Standard or Optional Form prescribed by the Federal Acquisition Regulation (FAR) may be submitted on a computer generated version of the form, provided there is no change to the name, content, or sequence of the data elements on the form, and provided the form carries the Standard or Optional Form number and edition date.

(b) Unless prohibited by agency regulations, any data required to be submitted on an agency unique form prescribed by an agency supplement to the FAR may be submitted on a computer generated version of the form provided there is no change to the name, content, or sequence of the data elements on the form and provided the form carries the agency form number and edition date.

(d) If the Contractor submits a computer generated version of a form that is different than the required form, then the rights and obligations of the parties will be determined based on the content of the required form.

(End of clause)

252.201-7000 CONTRACTING OFFICER'S REPRESENTATIVE (DEC 1991)

(a) "Definition. Contracting officer's representative" means an individual designated in accordance with subsection 201.602-2 of the Defense Federal Acquisition Regulation Supplement and authorized in writing by the contracting officer to perform specific technical or administrative functions.

(b) If the Contracting Officer designates a contracting officer's representative (COR), the Contractor will receive a copy of the written designation. It will specify the extent of the COR's authority to act on behalf of the contracting officer. The COR is not authorized to make any commitments or changes that will affect price, quality, quantity, delivery, or any other term or condition of the contract.

(End of clause)

252.203-7001 PROHIBITION ON PERSONS CONVICTED OF FRAUD OR OTHER DEFENSE-CONTRACT-RELATED FELONIES (DEC 2008)

(a) Definitions. As used in this clause—

(1) "Arising out of a contract with the DoD" means any act in connection with—

(i) Attempting to obtain;

(ii) Obtaining, or

(iii) Performing a contract or first-tier subcontract of any agency, department, or component of the Department of Defense (DoD).

(2) "Conviction of fraud or any other felony" means any conviction for fraud or a felony in violation of state or Federal criminal statutes, whether entered on a verdict or plea, including a plea of nolo contendere, for which sentence has been imposed.

(3) "Date of conviction" means the date judgment was entered against the individual.

(b) Any individual who is convicted after September 29, 1988, of fraud or any other felony arising out of a contract with the DoD is prohibited from serving--

(1) In a management or supervisory capacity on this contract;

(2) On the board of directors of the Contractor;

(3) As a consultant, agent, or representative for the Contractor; or

(4) In any other capacity with the authority to influence, advise, or control the decisions of the Contractor with regard to this contract.

(c) Unless waived, the prohibition in paragraph (b) of this clause applies for not less than 5 years from the date of conviction.

(d) 10 U.S.C. 2408 provides that the Contractor shall be subject to a criminal penalty of not more than \$500,000 if convicted of knowingly--

(1) Employing a person under a prohibition specified in paragraph (b) of this clause; or

(2) Allowing such a person to serve on the board of directors of the contractor or first-tier subcontractor.

(e) In addition to the criminal penalties contained in 10 U.S.C. 2408, the Government may consider other available remedies, such as—

(1) Suspension or debarment;

(2) Cancellation of the contract at no cost to the Government; or

(3) Termination of the contract for default.

(f) The Contractor may submit written requests for waiver of the prohibition in paragraph (b) of this clause to the Contracting Officer. Requests shall clearly identify—

(1) The person involved;

(2) The nature of the conviction and resultant sentence or punishment imposed;

(3) The reasons for the requested waiver; and

(4) An explanation of why a waiver is in the interest of national security.

(g) The Contractor agrees to include the substance of this clause, appropriately modified to reflect the identity and relationship of the parties, in all first-tier subcontracts exceeding the simplified acquisition threshold in Part 2 of the Federal Acquisition Regulation, except those for commercial items or components.

(h) Pursuant to 10 U.S.C. 2408(c), defense contractors and subcontractors may obtain information as to whether a particular person has been convicted of fraud or any other felony arising out of a contract with the DoD by contacting The Office of Justice Programs, The Denial of Federal Benefits Office, U.S. Department of Justice, telephone 301-937-1542; www.ojp.usdoj.gov/BJA/grant/DPFC.html.

(End of clause)

252.203-7002 REQUIREMENT TO INFORM EMPLOYEES OF WHISTLEBLOWER RIGHTS (JAN 2009)

The Contractor shall inform its employees in writing of employee whistleblower rights and protections under 10 U.S.C. 2409, as described in Subpart 203.9 of the Defense Federal Acquisition Regulation Supplement.

(End of clause)

252.204-7000 DISCLOSURE OF INFORMATION (DEC 1991)

(a) The Contractor shall not release to anyone outside the Contractor's organization any unclassified information, regardless of medium (e.g., film, tape, document), pertaining to any part of this contract or any program related to this contract, unless--

(1) The Contracting Officer has given prior written approval; or

(2) The information is otherwise in the public domain before the date of release.

(b) Requests for approval shall identify the specific information to be released, the medium to be used, and the purpose for the release. The Contractor shall submit its request to the Contracting Officer at least 45 days before the proposed date for release.

(c) The Contractor agrees to include a similar requirement in each subcontract under this contract. Subcontractors shall submit requests for authorization to release through the prime contractor to the Contracting Officer.

(End of clause)

252.204-7003 CONTROL OF GOVERNMENT PERSONNEL WORK PRODUCT (APR 1992)

The Contractor's procedures for protecting against unauthorized disclosure of information shall not require Department of Defense employees or members of the Armed Forces to relinquish control of their work products, whether classified or not, to the contractor.

(End of clause)

252.204-7004 CENTRAL CONTRACTOR REGISTRATION (52.204-7) ALTERNATE A (SEP 2007)

(a) Definitions. As used in this clause--

“Central Contractor Registration (CCR) database” means the primary Government repository for contractor information required for the conduct of business with the Government.

“Commercial and Government Entity (CAGE) code” means--

(1) A code assigned by the Defense Logistics Information Service (DLIS) to identify a commercial or Government entity; or

(2) A code assigned by a member of the North Atlantic Treaty Organization that DLIS records and maintains in the CAGE master file. This type of code is known as an “NCAGE code.”

“Data Universal Numbering System (DUNS) number” means the 9-digit number assigned by Dun and Bradstreet, Inc. (D&B) to identify unique business entities.

“Data Universal Numbering System +4 (DUNS+4) number” means the DUNS number assigned by D&B plus a 4-character suffix that may be assigned by a business concern. (D&B has no affiliation with this 4-character suffix.) This 4-character suffix may be assigned at the discretion of the business concern to establish additional CCR records for identifying alternative Electronic Funds Transfer (EFT) accounts (see Subpart 32.11 of the Federal Acquisition Regulation) for the same parent concern.

“Registered in the CCR database” means that--

(1) The Contractor has entered all mandatory information, including the DUNS number or the DUNS+4 number, into the CCR database;

(2) The Contractor's CAGE code is in the CCR database; and

(3) The Government has validated all mandatory data fields, to include validation of the Taxpayer Identification Number (TIN) with the Internal Revenue Service, and has marked the records “Active.” The Contractor will be required to provide consent for TIN validation to the Government as part of the CCR registration process.

(b)(1) By submission of an offer, the offeror acknowledges the requirement that a prospective awardee shall be registered in the CCR database prior to award, during performance, and through final payment of any contract, basic agreement, basic ordering agreement, or blanket purchasing agreement resulting from this solicitation.

(2) The offeror shall enter, in the block with its name and address on the cover page of its offer, the annotation “DUNS” or “DUNS +4” followed by the DUNS or DUNS +4 number that identifies the offeror's name and address exactly as stated in the offer. The DUNS number will be used by the Contracting Officer to verify that the offeror is registered in the CCR database.

(c) If the offeror does not have a DUNS number, it should contact Dun and Bradstreet directly to obtain one.

(1) An offeror may obtain a DUNS number-

(i) If located within the United States, by calling Dun and Bradstreet at 1-866-705-5711 or via the Internet at <http://www.dnb.com>; or

(ii) If located outside the United States, by contacting the local Dun and Bradstreet office.

(2) The offeror should be prepared to provide the following information:

(i) Company legal business.

(ii) Tradestyle, doing business, or other name by which your entity is commonly recognized.

(iii) Company Physical Street Address, City, State, and Zip Code.

(iv) Company Mailing Address, City, State and Zip Code (if separate from physical).

(v) Company Telephone Number.

(vi) Date the company was started.

(vii) Number of employees at your location.

(viii) Chief executive officer/key manager.

(ix) Line of business (industry).

(x) Company Headquarters name and address (reporting relationship within your entity).

(d) If the Offeror does not become registered in the CCR database in the time prescribed by the Contracting Officer, the Contracting Officer will proceed to award to the next otherwise successful registered Offeror.

(e) Processing time, which normally takes 48 hours, should be taken into consideration when registering. Offerors who are not registered should consider applying for registration immediately upon receipt of this solicitation.

(f) The Contractor is responsible for the accuracy and completeness of the data within the CCR database, and for any liability resulting from the Government's reliance on inaccurate or incomplete data. To remain registered in the CCR database after the initial registration, the Contractor is required to review and update on an annual basis from the date of initial registration or subsequent updates its information in the CCR database to ensure it is current, accurate and complete. Updating information in the CCR does not alter the terms and conditions of this contract and is not a substitute for a properly executed contractual document.

(g)

(1)

(i) If a Contractor has legally changed its business name, "doing business as" name, or division name (whichever is shown on the contract), or has transferred the assets used in performing the contract, but has not completed the necessary requirements regarding novation and change-of-name agreements in Subpart 42.12, the Contractor shall provide the responsible Contracting Officer a minimum of one business day's written notification of its intention to (A) change the name in the CCR database; (B) comply with the requirements of Subpart 42.12 of the FAR; and (C) agree in writing to the timeline and procedures specified by the responsible Contracting Officer. The Contractor must provide with the notification sufficient documentation to support the legally changed name.

(ii) If the Contractor fails to comply with the requirements of paragraph (g)(1)(i) of this clause, or fails to perform the agreement at paragraph (g)(1)(i)(C) of this clause, and, in the absence of a properly executed novation or change-of-name agreement, the CCR information that shows the Contractor to be other than the Contractor indicated in the contract will be considered to be incorrect information within the meaning of the "Suspension of Payment" paragraph of the electronic funds transfer (EFT) clause of this contract.

(2) The Contractor shall not change the name or address for EFT payments or manual payments, as appropriate, in the CCR record to reflect an assignee for the purpose of assignment of claims (see FAR Subpart 32.8, Assignment of Claims). Assignees shall be separately registered in the CCR database. Information provided to the Contractor's CCR record that indicates payments, including those made by EFT, to an ultimate recipient other than that Contractor will be considered to be incorrect information within the meaning of the "Suspension of payment" paragraph of the EFT clause of this contract.

(h) Offerors and Contractors may obtain information on registration and annual confirmation requirements via the internet at <http://www.ccr.gov> or by calling 1-888-227-2423, or 269-961-5757.

(End of clause)

252.205-7000 PROVISION OF INFORMATION TO COOPERATIVE AGREEMENT HOLDERS (DEC 1991)

(a) Definition.

"Cooperative agreement holder" means a State or local government; a private, nonprofit organization; a tribal organization (as defined in section 4(c) of the Indian Self-Determination and Education Assistance Act (Pub. L. 93-268; 25 U.S.C. 450 (c))); or an economic enterprise (as defined in section 3(e) of the Indian Financing Act of 1974

(Pub. L. 93-362; 25 U.S.C. 1452(e))) whether such economic enterprise is organized for profit or nonprofit purposes; which has an agreement with the Defense Logistics Agency to furnish procurement technical assistance to business entities.

(b) The Contractor shall provide cooperative agreement holders, upon their request, with a list of those appropriate employees or offices responsible for entering into subcontracts under defense contracts. The list shall include the business address, telephone number, and area of responsibility of each employee or office.

(c) The Contractor need not provide the listing to a particular cooperative agreement holder more frequently than once a year.

(End of clause)

252.209-7001 DISCLOSURE OF OWNERSHIP OR CONTROL BY THE GOVERNMENT OF A TERRORIST COUNTRY (JAN 2009)

(a) "Definitions."

As used in this provision --

(a) "Government of a terrorist country" includes the state and the government of a terrorist country, as well as any political subdivision, agency, or instrumentality thereof.

(2) "Terrorist country" means a country determined by the Secretary of State, under section 6(j)(1)(A) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)(i)(A)), to be a country the government of which has repeatedly provided support for such acts of international terrorism. As of the date of this provision, terrorist countries subject to this provision include: Cuba, Iran, Sudan, and Syria.

(3) "Significant interest" means --

(i) Ownership of or beneficial interest in 5 percent or more of the firm's or subsidiary's securities. Beneficial interest includes holding 5 percent or more of any class of the firm's securities in "nominee shares," "street names," or some other method of holding securities that does not disclose the beneficial owner;

(ii) Holding a management position in the firm, such as a director or officer;

(iii) Ability to control or influence the election, appointment, or tenure of directors or officers in the firm;

(iv) Ownership of 10 percent or more of the assets of a firm such as equipment, buildings, real estate, or other tangible assets of the firm; or

(v) Holding 50 percent or more of the indebtedness of a firm.

(b) "Prohibition on award."

In accordance with 10 U.S.C. 2327, no contract may be awarded to a firm or a subsidiary of a firm if the government of a terrorist country has a significant interest in the firm or subsidiary or, in the case of a subsidiary, the firm that owns the subsidiary, unless a waiver is granted by the Secretary of Defense.

(c) "Disclosure."

If the government of a terrorist country has a significant interest in the Offeror or a subsidiary of the Offeror, the Offeror shall disclosure such interest in an attachment to its offer. If the Offeror is a subsidiary, it shall also disclose any significant interest the government of a terrorist country has in any firm that owns or controls the subsidiary. The disclosure shall include --

- (1) Identification of each government holding a significant interest; and
- (2) A description of the significant interest held by each government.

(End of provision)

252.209-7004 SUBCONTRACTING WITH FIRMS THAT ARE OWNED OR CONTROLLED BY THE GOVERNMENT OF A TERRORIST COUNTRY (DEC 2006)

(a) Unless the Government determines that there is a compelling reason to do so, the Contractor shall not enter into any subcontract in excess of \$30,000 with a firm, or a subsidiary of a firm, that is identified in the Excluded Parties List System as being ineligible for the award of Defense contracts or subcontracts because it is owned or controlled by the government of a terrorist country.

(b) A corporate officer or a designee of the Contractor shall notify the Contracting Officer, in writing, before entering into a subcontract with a party that is identified, on the List of Parties Excluded from Federal Procurement and Nonprocurement Programs, as being ineligible for the award of Defense contracts or subcontracts because it is owned or controlled by the government of a terrorist country. The notice must include the name of the proposed subcontractor notwithstanding its inclusion on the List of Parties Excluded From Federal Procurement and Nonprocurement Programs.

(End of clause)

CLAUSES INCORPORATED BY FULL TEXT

252.215-7000 PRICING ADJUSTMENTS (DEC 1991)

The term "pricing adjustment," as used in paragraph (a) of the clauses entitled "Price Reduction for Defective Cost or Pricing Data - Modifications," "Subcontractor Cost or Pricing Data," and "Subcontractor Cost or Pricing Data - Modifications," means the aggregate increases and/or decreases in cost plus applicable profits.

(End of clause)

252.215-7002 COST ESTIMATING SYSTEM REQUIREMENTS (DEC 2006)

(a) Definitions.

Acceptable estimating system means an estimating system that--

- (1) Is maintained, reliable, and consistently applied;

(2) Produces verifiable, supportable, and documented cost estimates that are an acceptable basis for negotiation of fair and reasonable prices;

(3) Is consistent with and integrated with the Contractor's related management systems; and

(4) Is subject to applicable financial control systems.

"Estimating system" means the Contractor's policies, procedures, and practices for generating estimates of costs and other data included in proposals submitted to customers in the expectation of receiving contract awards. Estimating system includes the Contractor's --

(1) Organizational structure;

(2) Established lines of authority, duties, and responsibilities;

(3) Internal controls and managerial reviews;

(4) Flow of work, coordination, and communication; and

(5) Estimating methods, techniques, accumulation of historical costs, and other analyses used to generate cost estimates.1997

(b) General. The Contractor shall establish, maintain, and comply with an acceptable estimating system.

(c) "Applicability". Paragraphs (d) and (e) of this clause apply if the Contractor is a large business and either --

(1) In its fiscal year preceding award of this contract, received Department of Defense (DoD) prime contracts or subcontracts, totaling \$50 million or more for which certified cost or pricing data were required; or

(2) In its fiscal year preceding award of this contract --

(i) Received DoD prime contracts or subcontracts totaling \$10 million or more (but less than \$50 million) for which certified cost or pricing data were required; and

(ii) Was notified in writing by the Contracting Officer that paragraphs (d) and (e) of this clause apply.

(d) "System requirements."

(1) The Contractor shall disclose its estimating system to the Administrative Contracting Officer (ACO) in writing. If the Contractor wishes the Government to protect the information as privileged or confidential, the Contractor must mark the documents with the appropriate legends before submission.

(2) An estimating system disclosure is adequate when the Contractor has provided the ACO with documentation that--

(i) Accurately describes those policies, procedures, and practices that the Contractor currently uses in preparing cost proposals; and

(ii) Provides sufficient detail for the Government to reasonably make an informed judgment regarding the acceptability of the Contractor's estimating practices.

(3) The Contractor shall --

(i) Comply with its disclosed estimating system; and

(ii) Disclose significant changes to the cost estimating system to the ACO on a timely basis.

(e) "Estimating system deficiencies."

(1) The Contractor shall respond to a written report from the Government that identifies deficiencies in the Contractor's estimating system as follows:

(i) If the Contractor agrees with the report findings and recommendations, the Contractor shall --

(A) Within 30 days, state its agreement in writing; and

(B) Within 60 days, correct the deficiencies or submit a corrective action plan showing proposed milestones and actions leading to elimination of the deficiencies.

(ii) If the Contractor disagrees with the report, the Contractor shall, within 30 days, state its rationale for disagreeing.

(2) The ACO will evaluate the Contractor's response and notify the Contractor of the determination concerning remaining deficiencies and/or the adequacy of any proposed or completed corrective action.

(End of clause)

252.219-7003 SMALL BUSINESS SUBCONTRACTING PLAN (DOD CONTRACTS) (APR. 2007)

This clause supplements the Federal Acquisition Regulation 52.219-9, Small Business Subcontracting Plan, clause of this contract.

(a) *Definitions. Historically black colleges and universities*, as used in this clause, means institutions determined by the Secretary of Education to meet the requirements of 34 CFR 608.2. The term also means any nonprofit research institution that was an integral part of such a college or university before November 14, 1986.

Minority institutions, as used in this clause, means institutions meeting the requirements of section 1046(3) of the Higher Education Act of 1965 (20 U.S.C. 1135d-5(3)). The term also includes Hispanic-serving institutions as defined in section 316(b)(1) of such Act (20 U.S.C. 1059c(b)(1)).

(b) Except for company or division-wide commercial items subcontracting plans, the term *small disadvantaged business*, when used in the FAR 52.219-9 clause, includes historically black colleges and universities and minority institutions, in addition to small disadvantaged business concerns.

(c) Work under the contract or its subcontracts shall be credited toward meeting the small disadvantaged business concern goal required by paragraph (d) of the FAR 52.219-9 clause when:

(1) It is performed on Indian lands or in joint venture with an Indian tribe or a tribally-owned corporation, and

(2) It meets the requirements of 10 U.S.C. 2323a.

(d) Subcontracts awarded to workshops approved by the Committee for Purchase from People Who are Blind or Severely Disabled (41 U.S.C. 46-48), may be counted toward the Contractor's small business subcontracting goal.

(e) A mentor firm, under the Pilot Mentor-Protege Program established under Section 831 of Pub. L. 101-510, as

amended, may count toward its small disadvantaged business goal, subcontracts awarded--

(f) The master plan approval referred to in paragraph (f) of the FAR 52.219-9 clause is approval by the Contractor's cognizant contract administration activity.

(g) In those subcontracting plans which specifically identify small businesses, the Contractor shall notify the Administrative Contracting Officer of any substitutions of firms that are not small business firms, for the small business firms specifically identified in the subcontracting plan. Notifications shall be in writing and shall occur within a reasonable period of time after award of the subcontract. Contractor-specified formats shall be acceptable.

(End of clause)

252.222-7002 COMPLIANCE WITH LOCAL LABOR LAWS (OVERSEAS) (JUN 1997)

(a) The Contractor shall comply with all—

(1) Local laws, regulations, and labor union agreements governing work hours; and

(2) Labor regulations including collective bargaining agreements, workers' compensation, working conditions, fringe benefits, and labor standards or labor contract matters.

(b) The Contractor indemnifies and holds harmless the United States Government from all claims arising out of the requirements of this clause. This indemnity includes the Contractor's obligation to handle and settle, without cost to the United States Government, any claims or litigation concerning allegations that the Contractor or the United States Government, or both, have not fully complied with local labor laws or regulations relating to the performance of work required by this contract.

(c) Notwithstanding paragraph (b) of this clause, consistent with paragraphs 31.205-15(a) and 31.205-47(d) of the Federal Acquisition Regulation, the Contractor will be reimbursed for the costs of all fines, penalties, and reasonable litigation expenses incurred as a result of compliance with specific contract terms and conditions or written instructions from the Contracting officer.

(End of clause)

252.223-7001 HAZARD WARNING LABELS (DEC 1991)

(a) "Hazardous material," as used in this clause, is defined in the Hazardous Material Identification and Material Safety Data clause of this contract.

(b) The Contractor shall label the item package (unit container) of any hazardous material to be delivered under this contract in accordance with the Hazard Communication Standard (29 CFR 1910.1200 et seq). The Standard requires that the hazard warning label conform to the requirements of the standard unless the material is otherwise subject to the labeling requirements of one of the following statutes:

(1) Federal Insecticide, Fungicide and Rodenticide Act;

(2) Federal Food, Drug and Cosmetics Act;

(3) Consumer Product Safety Act;

(4) Federal Hazardous Substances Act; or

(5) Federal Alcohol Administration Act.

(c) The Offeror shall list which hazardous material listed in the Hazardous Material Identification and Material Safety Data clause of this contract will be labeled in accordance with one of the Acts in paragraphs (b)(1) through (5) of this clause instead of the Hazard Communication Standard. Any hazardous material not listed will be interpreted to mean that a label is required in accordance with the Hazard Communication Standard.

MATERIAL (If None, Insert "None.")

ACT

(d) The apparently successful Offeror agrees to submit, before award, a copy of the hazard warning label for all hazardous materials not listed in paragraph (c) of this clause. The Offeror shall submit the label with the Material Safety Data Sheet being furnished under the Hazardous Material Identification and Material Safety Data clause of this contract.

(e) The Contractor shall also comply with MIL-STD-129, Marking for Shipment and Storage (including revisions adopted during the term of this contract).

(End of clause)

252.223-7004 DRUG-FREE WORK FORCE (SEP 1988)

(a) Definitions.

(1) "Employee in a sensitive position," as used in this clause, means an employee who has been granted access to classified information; or employees in other positions that the Contractor determines involve national security; health or safety, or functions other than the foregoing requiring a high degree of trust and confidence.

(2) "Illegal drugs," as used in this clause, means controlled substances included in Schedules I and II, as defined by section 802(6) of title 21 of the United States Code, the possession of which is unlawful under chapter 13 of that Title. The term "illegal drugs" does not mean the use of a controlled substance pursuant to a valid prescription or other uses authorized by law.

(b) The Contractor agrees to institute and maintain a program for achieving the objective of a drug-free work force. While this clause defines criteria for such a program, contractors are encouraged to implement alternative approaches comparable to the criteria in paragraph (c) that are designed to achieve the objectives of this clause.

(c) Contractor programs shall include the following, or appropriate alternatives:

(1) Employee assistance programs emphasizing high level direction, education, counseling, rehabilitation, and coordination with available community resources;

(2) Supervisory training to assist in identifying and addressing illegal drug use by Contractor employees;

(3) Provision for self-referrals as well as supervisory referrals to treatment with maximum respect for individual confidentiality consistent with safety and security issues;

(4) Provision for identifying illegal drug users, including testing on a controlled and carefully monitored basis. Employee drug testing programs shall be established taking account of the following:

(i) The Contractor shall establish a program that provides for testing for the use of illegal drugs by employees in sensitive positions. The extent of and criteria for such testing shall be determined by the Contractor based on considerations that include the nature of the work being performed under the contract, the employee's duties, and efficient use of Contractor resources, and the risks to health, safety, or national security that could result from the failure of an employee adequately to discharge his or her position.

(ii) In addition, the Contractor may establish a program for employee drug testing--

(A) When there is a reasonable suspicion that an employee uses illegal drugs; or

(B) When an employee has been involved in an accident or unsafe practice;

(C) As part of or as a follow-up to counseling or rehabilitation for illegal drug use;

(D) As part of a voluntary employee drug testing program.

(iii) The Contractor may establish a program to test applicants for employment for illegal drug use.

(iv) For the purpose of administering this clause, testing for illegal drugs may be limited to those substances for which testing is prescribed by section 2.1 of subpart B of the "Mandatory Guidelines for Federal Workplace Drug Testing Programs" (53 FR 11980 (April 11, 1988), issued by the Department of Health and Human Services.

(d) Contractors shall adopt appropriate personnel procedures to deal with employees who are found to be using drugs illegally. Contractors shall not allow any employee to remain on duty or perform in a sensitive position who is found to use illegal drugs until such times as the Contractor, in accordance with procedures established by the Contractor, determines that the employee may perform in such a position.

(e) The provisions of this clause pertaining to drug testing program shall not apply to the extent that are inconsistent with state or local law, or with an existing collective bargaining agreement; provided that with respect to the latter, the Contractor agrees those issues that are in conflict will be a subject of negotiation at the next collective bargaining session.

(End of clause)

252.223-7006 PROHIBITION ON STORAGE AND DISPOSAL OF TOXIC AND HAZARDOUS MATERIALS (APR 1993)

(a) "Definitions".

As used in this clause --

(1) "Storage" means a non-transitory, semi-permanent or permanent holding, placement, or leaving of material. It does not include a temporary accumulation of a limited quantity of a material used in or a waste generated or resulting from authorized activities, such as servicing, maintenance, or repair of Department of Defense (DoD) items, equipment, or facilities.

(2) "Toxic or hazardous materials" means:

(i) Materials referred to in section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980 (42 U.S.C. 9601(14)) and materials designated under section 102 of CERCLA (42 U.S.C. 9602) (40 CFR part 302);

(ii) Materials that are of an explosive, flammable, or pyrotechnic nature; or

(iii) Materials otherwise identified by the Secretary of Defense as specified in DoD regulations.

(b) In accordance with 10 U.S.C. 2692, the Contractor is prohibited from storing or disposing of non-DoD-owned toxic or hazardous materials on a DoD installation, except to the extent authorized by a statutory exception to 10 U.S.C. 2692 or as authorized by the Secretary of Defense or his designee.

(End of clause)

252.225-7001 BUY AMERICAN ACT AND BALANCE OF PAYMENTS PROGRAM (JAN 2009)

(a) Definitions. As used in this clause--

(1) Commercially available off-the-shelf (COTS) item--

(i) Means any item of supply (including construction material) that is--

(A) A commercial item (as defined in paragraph (1) of the definition of "commercial item" in section 2.101 of the Federal Acquisition Regulation);

(B) Sold in substantial quantities in the commercial marketplace; and

(C) Offered to the Government, under a contract or subcontract at any tier, without modification, in the same form in which it is sold in the commercial marketplace; and

(ii) Does not include bulk cargo, as defined in section 3 of the Shipping Act of 1984 (46 U.S.C. 40102), such as agricultural products and petroleum products.

(2) Component means an article, material, or supply incorporated directly into an end product.

(3) Domestic end product means--

(i) An unmanufactured end product that has been mined or produced in the United States; or

(ii) An end product manufactured in the United States if--

(A) The cost of its qualifying country components and its components that are mined, produced, or manufactured in the United States exceeds 50 percent of the cost of all its components. The cost of components includes transportation costs to the place of incorporation into the end product and U.S. duty (whether or not a duty-free entry certificate is issued). Scrap generated, collected, and prepared for processing in the United States is considered domestic. A component is considered to have been mined, produced, or manufactured in the United States (regardless of its source in fact) if the end product in which it is incorporated is manufactured in the United States and the component is of a class or kind for which the Government has determined that--

(1) Sufficient and reasonably available commercial quantities of a satisfactory quality are not mined, produced, or manufactured in the United States; or

- (2) It is inconsistent with the public interest to apply the restrictions of the Buy American Act; or
- (B) The end product is a COTS item.
- (4) End product means those articles, materials, and supplies to be acquired under this contract for public use.
- (5) Foreign end product means an end product other than a domestic end product.
- (6) Qualifying country means any country set forth in subsection 225.872-1 of the Defense Federal Acquisition Regulation Supplement.
- (7) Qualifying country component means a component mined, produced, or manufactured in a qualifying country.
- (8) Qualifying country end product means--
 - (i) An unmanufactured end product mined or produced in a qualifying country; or
 - (ii) An end product manufactured in a qualifying country if the cost of the following types of components exceeds 50 percent of the cost of all its components:
 - (A) Components mined, produced, or manufactured in a qualifying country.
 - (B) Components mined, produced, or manufactured in the United States.
 - (C) Components of foreign origin of a class or kind for which the Government has determined that sufficient and reasonably available commercial quantities of a satisfactory quality are not mined, produced, or manufactured in the United States.
- (8) United States means the 50 States, the District of Columbia, and outlying areas.
- (b) This clause implements the Buy American Act (41 U.S.C. Section 10a-d). In accordance with 41 U.S.C. 431, the component test of the Buy American Act is waived for an end product that is a COTS item (see section 12.505(a)(1) of the Federal Acquisition Regulation). Unless otherwise specified, this clause applies to all line items in the contract.
- (c) The Contractor shall deliver only domestic end products unless, in its offer, it specified delivery of other end products in the Buy American Act--Balance of Payments Program Certificate provision of the solicitation. If the Contractor certified in its offer that it will deliver a qualifying country end product, the Contractor shall deliver a qualifying country end product or, at the Contractor's option, a domestic end product.
- (d) The contract price does not include duty for end products or components for which the Contractor will claim duty-free entry.
- (End of clause)

252.225-7005 IDENTIFICATION OF EXPENDITURES IN THE UNITED STATES (JUN 2005)

- (a) Definition. United States, as used in this clause, means the 50 States, the District of Columbia, and outlying areas.
- (b) This clause applies only if the Contractor is--

(1) A concern incorporated in the United States (including a subsidiary that is incorporated in the United States, even if the parent corporation is not incorporated in the United States); or

(2) An unincorporated concern having its principal place of business in the United States.

(c) On each invoice, voucher, or other request for payment under this contract, the Contractor shall identify that part of the requested payment that represents estimated expenditures in the United States. The identification--

(1) May be expressed either as dollar amounts or as percentages of the total amount of the request for payment;

(2) Should be based on reasonable estimates; and

(3) Shall state the full amount of the payment requested, subdivided into the following categories:

(i) U.S. products--expenditures for material and equipment manufactured or produced in the United States, including end products, components, or construction material, but excluding transportation;

(ii) U.S. services--expenditures for services performed in the United States, including all charges for overhead, other indirect costs, and profit under construction or service contracts;

(iii) Transportation on U.S. carriers--expenditures for transportation furnished by U.S. flag, ocean, surface, and air carriers; and

(iv) Expenditures not identified under paragraphs (c)(3)(i) through (iii) of this clause.

(d) Nothing in this clause requires the establishment or maintenance of detailed accounting records or gives the U.S. Government any right to audit the Contractor's books or records.

(End of clause)

252.225-7012 PREFERENCE FOR CERTAIN DOMESTIC COMMODITIES (DEC 2008)

(a) Definitions. As used in this clause--

(1) Component means any item supplied to the Government as part of an end product or of another component.

(2) End product means supplies delivered under a line item of this contract.

(3) Qualifying country means a country with a memorandum of understanding or international agreement with the United States. The following are qualifying countries:

Australia
Austria
Belgium
Canada
Denmark
Egypt
Finland
France

Germany
 Greece
 Israel
 Italy
 Luxembourg
 Netherlands
 Norway
 Portugal
 Spain
 Sweden
 Switzerland
 Turkey
 United Kingdom of Great Britain and Northern Ireland.

(4) United States means the 50 States, the District of Columbia, and outlying areas.

(5) U.S.-flag vessel means a vessel of the United States or belonging to the United States, including any vessel registered or having national status under the laws of the United States.

(b) The Contractor shall deliver under this contract only such of the following items, either as end products or components, that have been grown, reprocessed, reused, or produced in the United States:

(1) Food.

(2) Clothing and the materials and components thereof, other than sensors, electronics, or other items added to, and not normally associated with, clothing and the materials and components thereof. Clothing includes items such as outerwear, headwear, underwear, nightwear, footwear, hosiery, handwear, belts, badges, and insignia.

(3) Tents, tarpaulins, or covers.

(4) Cotton and other natural fiber products.

(5) Woven silk or woven silk blends.

(6) Spun silk yarn for cartridge cloth.

(7) Synthetic fabric, and coated synthetic fabric, including all textile fibers and yarns that are for use in such fabrics.

(8) Canvas products.

(9) Wool (whether in the form of fiber or yarn or contained in fabrics, materials, or manufactured articles).

(10) Any item of individual equipment (Federal Supply Class 8465) manufactured from or containing fibers, yarns, fabrics, or materials listed in this paragraph (b).

(c) This clause does not apply--

(1) To items listed in section 25.104(a) of the Federal Acquisition Regulation (FAR), or other items for which the Government has determined that a satisfactory quality and sufficient quantity cannot be acquired as and when needed at U.S. market prices;

(2) To incidental amounts of cotton, other natural fibers, or wool incorporated in an end product, for which the estimated value of the cotton, other natural fibers, or wool--

(i) Is not more than 10 percent of the total price of the end product; and (ii) Does not exceed the simplified acquisition threshold in FAR part 2;

(3) To waste and byproducts of cotton or wool fiber for use in the production of propellants and explosives;

(4) To foods, other than fish, shellfish, or seafood, that have been manufactured or processed in the United States, regardless of where the foods (and any component if applicable) were grown or produced. Fish, shellfish, or seafood manufactured or processed in the United States and fish, shellfish, or seafood contained in foods manufactured or processed in the United States shall be provided in accordance with paragraph (d) of this clause;

(5) To chemical warfare protective clothing produced in a qualifying country; or

(6) To fibers and yarns that are for use in synthetic fabric or coated synthetic fabric (but does apply to the synthetic or coated synthetic fabric itself), if--

(i) The fabric is to be used as a component of an end product that is not a textile product. Examples of textile products, made in whole or in part of fabric, include--

(A) Draperies, floor coverings, furnishings, and bedding (Federal Supply Group 72, Household and Commercial Furnishings and Appliances);

(B) Items made in whole or in part of fabric in Federal Supply Group 83, Textile/leather/furs/apparel/findings/tents/flags, or Federal Supply Group 84, Clothing, Individual Equipment and Insignia;

(C) Upholstered seats (whether for household, office, or other use); and

(D) Parachutes (Federal Supply Class 1670); or

(ii) The fibers and yarns are para-aramid fibers and yarns manufactured in a qualifying country.

(d)(1) Fish, shellfish, and seafood delivered under this contract, or contained in foods delivered under this contract--

(i) Shall be taken from the sea by U.S.-flag vessels; or

(ii) If not taken from the sea, shall be obtained from fishing within the United States; and

(2) Any processing or manufacturing of the fish, shellfish, or seafood shall be performed on a U.S.-flag vessel or in the United States.

(End of clause)

252.225-7015 RESTRICTION ON ACQUISITION OF HAND OR MEASURING TOOLS (JUN 2005)

Hand or measuring tools delivered under this contract shall be produced in the United States or its outlying areas.

(End of clause)

252.225-7019 RESTRICTION ON ACQUISITION OF ANCHOR AND MOORING CHAIN (DEC 2009)

(a) Definition.

“Component,” as used in this clause, means an article, material, or supply incorporated directly into an end product

(b) Welded shipboard anchor and mooring chain, four inches or less in diameter, delivered under this contract--

(1) Shall be manufactured in the United States or its outlying areas, including cutting, heat treating, quality control, testing, and welding (both forging and shot blasting process); and

(2) The cost of the components manufactured in the United States or its outlying areas shall exceed 50 percent of the total cost of components.

(c) The Contractor may request a waiver of this restriction if adequate domestic supplies meeting the requirements in paragraph (b) of this clause are not available to meet the contract delivery schedule.

(d) The Contractor shall insert the substance of this clause, including this paragraph (d), in all subcontracts for items containing welded shipboard anchor and mooring chain, four inches or less in diameter.

(End of clause)

252.225-7022 TRADE AGREEMENTS CERTIFICATE--INCLUSION OF IRAQI END PRODUCTS (SEP 2008)

(a) Definitions. Designated country end product, Iraqi end product, nondesignated country end product, qualifying country end product, and U.S.-made end product have the meanings given in the Trade Agreements clause of this solicitation.

(b) Evaluation. The Government--

(1) Will evaluate offers in accordance with the policies and procedures of Part 225 of the Defense Federal Acquisition Regulation Supplement; and

(2) Will consider only offers of end products that are U.S.-made, qualifying country, Iraqi, or designated country end products unless--

(i) There are no offers of such end products;

(ii) The offers of such end products are insufficient to fulfill the Government's requirements; or

(iii) A national interest waiver has been granted.

(c) Certification and identification of country of origin.

(1) For all line items subject to the Trade Agreements clause of this solicitation, the offeror certifies that each end product to be delivered under a contract resulting from this solicitation, except those listed in paragraph (c)(2) of this provision, is a U.S.-made, qualifying country, Iraqi, or designated country end product.

(2) The following supplies are other nondesignated country end products:

(Country of Origin)

(Line Item Number)

(End of provision)

252.225-7023 PREFERENCE FOR PRODUCTS OR SERVICES FROM IRAQ OR AFGHANISTAN (SEP 2008)

(a) Definitions. Product from Iraq or Afghanistan and service from Iraq or Afghanistan, as used in this provision, are defined in the clause of this solicitation entitled "Requirement for Products or Services from Iraq or Afghanistan" (DFARS 252.225-7024).

(b) Representation. The offeror represents that all products or services to be delivered under a contract resulting from this solicitation are products from Iraq or Afghanistan or services from Iraq or Afghanistan, except those listed in--

(1) Paragraph (c) of this provision; or

(2) Paragraph (c)(2) of the provision entitled "Trade Agreements Certificate--Inclusion of Iraqi End Products," if included in this solicitation.

(c) Other products or services. The following offered products or services are not products from Iraq or Afghanistan or services from Iraq or Afghanistan:

(Country of Origin)

(Line Item Number)

(d) Evaluation. For the purpose of evaluating competitive offers, the Contracting Officer will increase by 50 percent the prices of offers of products or services that are not products or services from Iraq or Afghanistan.

(End of provision)

252.225-7024 REQUIREMENT FOR PRODUCTS OR SERVICES FROM IRAQ OR AFGHANISTAN (SEP 2008)

(a) Definitions. As used in this clause--

(1) Product from Iraq or Afghanistan means a product that is mined, produced, or manufactured in Iraq or Afghanistan.

(2) Service from Iraq or Afghanistan means a service that is performed in Iraq or Afghanistan predominantly by citizens or permanent resident aliens of Iraq or Afghanistan.

(b) The Contractor shall provide only products from Iraq or Afghanistan or services from Iraq or Afghanistan under this contract, unless, in its offer, it specified that it would provide products or services other than products from Iraq or Afghanistan or services from Iraq or Afghanistan.

(End of clause)

252.225-7025 RESTRICTION ON ACQUISITION OF FORGINGS (DEC 2009)

(a) Definitions. As used in this clause--

(1) Component means any item supplied to the Government as part of an end product or of another component.

(2) Domestic manufacture means manufactured in the United States, its outlying areas, or Canada.

(i) Manufactured in the United States or its outlying areas; or

(ii) Manufactured in Canada, if the Canadian firm normally produces similar items or is currently producing the item in support of DoD contracts (as a contractor or a subcontractor).

(3) Forging items means--

| Items | Categories |
|-----------------------------------|--|
| Ship propulsion shafts..... | Excludes service and landing craft shafts. |
| Periscope tubes..... | All. |
| Ring forgings for bull gears..... | All greater than 120 inches in diameter. |

(b) End products and their components delivered under this contract shall contain forging items that are of domestic manufacture only.

(c) The restriction in paragraph (b) of this clause may be waived upon request from the Contractor in accordance with subsection 225.7102-3 of the Defense Federal Acquisition Regulation Supplement.

(d) The Contractor shall retain records showing compliance with the restriction in paragraph (b) of this clause until 3 years after final payment and shall make the records available upon request of the Contracting Officer.

(e) The Contractor shall insert the substance of this clause, including this paragraph (e), in subcontracts for forging items or for other items that contain forging items.

(End of clause)

252.225-7026 ACQUISITION RESTRICTED TO PRODUCTS OR SERVICES FROM IRAQ OR AFGHANISTAN (SEP 2008)

(a) Definitions. As used in this clause--

(1) Product from Iraq or Afghanistan means a product that is mined, produced, or manufactured in Iraq or Afghanistan.

(2) Service from Iraq or Afghanistan means a service that is performed in Iraq or Afghanistan predominantly by citizens or permanent resident aliens of Iraq or Afghanistan.

(b) The Contractor shall provide only products from Iraq or Afghanistan or services from Iraq or Afghanistan under this contract.

(End of clause)

252.225-7027 RESTRICTION ON CONTINGENT FEES FOR FOREIGN MILITARY SALES (APR 2003)

(a) Except as provided in paragraph (b) of this clause, contingent fees, as defined in the Covenant Against Contingent Fees clause of this contract, are generally an allowable cost, provided the fees are paid to--

(1) A bona fide employee of the Contractor; or

(2) A bona fide established commercial or selling agency maintained by the Contractor for the purpose of securing business.

(b) For foreign military sales, unless the contingent fees have been identified and payment approved in writing by the foreign customer before contract award, the following contingent fees are unallowable under this contract:

(1) For sales to the Government(s) of TO BE DETERMINED AT TASK ORDER , contingent fees in any amount.

(2) For sales to Governments not listed in paragraph (b)(1) of this clause, contingent fees exceeding \$50,000 per foreign military sale case.

(End of Clause)

CLAUSES INCORPORATED BY FULL TEXT

252.225-7028 EXCLUSIONARY POLICIES AND PRACTICES OF FOREIGN GOVERNMENTS (APR 2003)

The Contractor and its subcontractors shall not take into account the exclusionary policies or practices of any foreign government in employing or assigning personnel, if--

(a) The personnel will perform functions required by this contract, either in the United States or abroad; and

(b) The exclusionary policies or practices of the foreign government are based on race, religion, national origin, or sex.

(End of clause)

252.225-7030 RESTRICTION ON ACQUISITION OF CARBON, ALLOY, AND ARMOR STEEL

PLATE (DEC 2006)

(a) Carbon, alloy, and armor steel plate shall be melted and rolled in the United States or Canada if the carbon, alloy, or armor steel plate--

(1) Is in Federal Supply Class 9515 or is described by specifications of the American Society for Testing Materials or the American Iron and Steel Institute; and

(2)(i) Will be delivered to the Government for use in a Government-owned facility or a facility under the control of the Department of Defense; or

(ii) Will be purchased by the Contractor for use in a Government-owned facility or a facility under the control of the Department of Defense.

(b) This restriction--

(1) Applies to the acquisition of carbon, alloy, or armor steel plate as a finished steel mill product that may be used ``as is" or may be used as an intermediate material for the fabrication of an end product; and

(2) Does not apply to the acquisition of an end product (e.g., a machine tool), to be used in the facility, that contains carbon, alloy, or armor steel plate as a component.

(End of clause)

252.225-7031 SECONDARY ARAB BOYCOTT OF ISRAEL (JUN 2005)

(a) Definitions. As used in this provision--

(1) Foreign person means any person (including any individual, partnership, corporation, or other form of association) other than a United States person.

(2) United States means the 50 States, the District of Columbia, outlying areas, and the outer Continental Shelf as defined in 43 U.S.C. 1331.

(3) United States person is defined in 50 U.S.C. App. 2415(2) and means--

(i) Any United States resident or national (other than an individual resident outside the United States who is employed by other than a United States person);

(ii) Any domestic concern (including any permanent domestic establishment of any foreign concern); and

(iii) Any foreign subsidiary or affiliate (including any permanent foreign establishment) of any domestic concern that is controlled in fact by such domestic concern.

(b) Certification. If the offeror is a foreign person, the offeror certifies, by submission of an offer, that it--

(1) Does not comply with the Secondary Arab Boycott of Israel; and

(2) Is not taking or knowingly agreeing to take any action, with respect to the Secondary Boycott of Israel by Arab countries, which 50 U.S.C. App. 2407(a) prohibits a United States person from taking.

(End of provision)

252.225-7032 WAIVER OF UNITED KINGDOM LEVIES--EVALUATION OF OFFERS (APR 2003)

(a) Offered prices for contracts or subcontracts with United Kingdom (U.K.) firms may contain commercial exploitation levies assessed by the Government of the U.K. The offeror shall identify to the Contracting Officer all levies included in the offered price by describing--

(1) The name of the U.K. firm;

(2) The item to which the levy applies and the item quantity; and

(3) The amount of levy plus any associated indirect costs and profit or fee.

(b) In the event of difficulty in identifying levies included in a price from a prospective subcontractor, the offeror may seek advice through the Director of Procurement, United Kingdom Defence Procurement Office, British Embassy, 3100 Massachusetts Avenue NW., Washington, DC 20006.

(c) The U.S. Government may attempt to obtain a waiver of levies pursuant to the U.S./U.K. reciprocal waiver agreement of July 1987.

(1) If the U.K. waives levies before award of a contract, the Contracting Officer will evaluate the offer without the levy.

(2) If levies are identified but not waived before award of a contract, the Contracting Officer will evaluate the offer inclusive of the levies.

(3) If the U.K. grants a waiver of levies after award of a contract, the U.S. Government reserves the right to reduce the contract price by the amount of the levy waived plus associated indirect costs and profit or fee.

(End of provision)

252.225-7033 WAIVER OF UNITED KINGDOM LEVIES (APR 2003)

(a) The U.S. Government may attempt to obtain a waiver of any commercial exploitation levies included in the price of this contract, pursuant to the U.S./United Kingdom (U.K.) reciprocal waiver agreement of July 1987. If the U.K. grants a waiver of levies included in the price of this contract, the U.S. Government reserves the right to reduce the contract price by the amount of the levy waived plus associated indirect costs and profit or fee.

(b) If the Contractor contemplates award of a subcontract exceeding \$1 million to a U.K. firm, the Contractor shall provide the following information to the Contracting Officer before award of the subcontract:

(1) Name of the U.K. firm.

(2) Prime contract number.

(3) Description of item to which the levy applies.

(4) Quantity being acquired.

(5) Amount of levy plus any associated indirect costs and profit or fee.

(c) In the event of difficulty in identifying levies included in a price from a prospective subcontractor, the Contractor may seek advice through the Director of Procurement, United Kingdom Defence Procurement Office, British Embassy, 3100 Massachusetts Avenue NW., Washington, DC 20006.

(d) The Contractor shall insert the substance of this clause, including this paragraph (d), in any subcontract for supplies where a lower-tier subcontract exceeding \$1 million with a U.K. firm is anticipated.

(End of clause)

252.225-7036 BUY AMERICAN ACT--FREE TRADE AGREEMENT--BALANCE OF PAYMENTS PROGRAM (JUL 2009)

(a) Definitions. As used in this clause--

(1) Bahrainian end product means an article that--

(i) Is wholly the growth, product, or manufacture of Bahrain; or

(ii) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in Bahrain into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product includes services (except transportation services) incidental to its supply, provided that the value of those incidental services does not exceed the value of the product itself.

(2) Commercially available off-the-shelf (COTS) item--

(i) Means any item of supply (including construction material) that is--

(A) A commercial item (as defined in paragraph (1) of the definition of "commercial item" in section 2.101 of the Federal Acquisition Regulation);

(B) Sold in substantial quantities in the commercial marketplace; and

(C) Offered to the Government, under a contract or subcontract at any tier, without modification, in the same form in which it is sold in the commercial marketplace; and

(ii) Does not include bulk cargo, as defined in section 3 of the Shipping Act of 1984 (46 U.S.C. 40102), such as agricultural products and petroleum products.

(3) Component means an article, material, or supply incorporated directly into an end product.

(4) Domestic end product means--

(i) An unmanufactured end product that has been mined or produced in the United States; or

(ii) An end product manufactured in the United States if--

(A) The cost of its qualifying country components and its components that are mined, produced, or manufactured in the United States exceeds 50 percent of the cost of all its components. The cost of components includes transportation costs to the place of incorporation into the end product and U.S. duty (whether or not a duty-free entry certificate is issued). Scrap generated, collected, and prepared for processing in the United States is considered domestic. A component is considered to have been mined, produced, or manufactured in the United States (regardless of its source in fact) if the end product in which it is incorporated is manufactured in the United States and the component is of a class or kind for which the Government has determined that--

(1) Sufficient and reasonably available commercial quantities of a satisfactory quality are not mined, produced, or manufactured in the United States; or

(2) It is inconsistent with the public interest to apply the restrictions of the Buy American Act; or

(B) The end product is a COTS item.

(5) End product means those articles, materials, and supplies to be acquired under this contract for public use.

(6) Foreign end product means an end product other than a domestic end product.

(7) A Free Trade Agreement country (Australia, Bahrain, Canada, Chile, Costa Rica, Dominican Republic, El Salvador, Guatemala, Honduras, Mexico, Morocco, Nicaragua, Peru, or Singapore);

(8) Free Trade Agreement country end product means an article that--

(i) Is wholly the growth, product, or manufacture of a Free Trade Agreement country; or

(ii) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in a Free Trade Agreement country into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product includes services (except transportation services) incidental to its supply, provided that the value of those incidental services does not exceed the value of the product itself.

(9) Moroccan end product means an article that--

(i) Is wholly the growth, product, or manufacture of Morocco; or

(ii) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in Morocco into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product includes services (except transportation services) incidental to its supply, provided that the value of those incidental services does not exceed the value of the product itself.

(10) Qualifying country means any country set forth in subsection 225.872-1 of the Defense Federal Acquisition Regulation Supplement.

(11) Qualifying country component means a component mined, produced, or manufactured in a qualifying country.

(12) Qualifying country end product means--

(i) An unmanufactured end product mined or produced in a qualifying country; or

(ii) An end product manufactured in a qualifying country if the cost of the following types of components exceeds 50 percent of the cost of all its components:

(A) Components mined, produced, or manufactured in a qualifying country.

(B) Components mined, produced, or manufactured in the United States.

(C) Components of foreign origin of a class or kind for which the Government has determined that sufficient and reasonably available commercial quantities of a satisfactory quality are not mined, produced, or manufactured in the United States.

(13) United States means the 50 States, the District of Columbia, and outlying areas.

(b) Unless otherwise specified, this clause applies to all items in the Schedule.

(c) The Contractor shall deliver under this contract only domestic end products unless, in its offer, it specified delivery of qualifying country end products, Free Trade Agreement country end products other than Bahrainian end products or Moroccan end products, or other foreign end products in the Buy American Act--Free Trade Agreements--Balance of Payments Program Certificate provision of the solicitation. If the Contractor certified in its offer that it will deliver a qualifying country end product or a Free Trade Agreement country end product other than a Bahrainian end product or a Moroccan end product, the Contractor shall deliver a qualifying country end product, a Free Trade Agreement country end product other than a Bahrainian end product or a Moroccan end product, or, at the Contractor's option, a domestic end product.

(d) The contract price does not include duty for end products or components for which the Contractor will claim duty-free entry.

(End of clause)

252.225-7040 CONTRACTOR PERSONNEL AUTHORIZED TO ACCOMPANY U.S. ARMED FORCES DEPLOYED OUTSIDE THE UNITED STATES (JUL 2009)

(a) Definitions. As used in this clause--Combatant Commander means the commander of a unified or specified combatant command established in accordance with 10 U.S.C. 161.

Designated operational area means a geographic area designated by the combatant commander or subordinate joint force commander for the conduct or support of specified military operations.

Law of war means that part of international law that regulates the conduct of armed hostilities. The law of war encompasses all international law for the conduct of hostilities binding on the United States or its individual citizens, including treaties and international agreements to which the United States is a party, and applicable customary international law.

Subordinate joint force commander means a sub-unified commander or joint task force commander.

(b) General.

(1) This clause applies when Contractor personnel are authorized to accompany U.S. Armed Forces deployed outside the United States in--

(i) Contingency operations;

(ii) Humanitarian or peacekeeping operations; or

(iii) Other military operations or military exercises, when designated by the Combatant Commander.

(2) Contract performance in support of U.S. Armed Forces deployed outside the United States may require work in dangerous or austere conditions. Except as otherwise provided in the contract, the Contractor accepts the risks associated with required contract performance in such operations.

(3) Contractor personnel are civilians accompanying the U.S. Armed Forces.

(i) Except as provided in paragraph (b)(3)(ii) of this clause, Contractor personnel are only authorized to use deadly force in self-defense.

(ii) Contractor personnel performing security functions are also authorized to use deadly force when such force reasonably appears necessary to execute their security mission to protect assets/persons, consistent with the terms and conditions contained in their contract or with their job description and terms of employment.

(iii) Unless immune from host nation jurisdiction by virtue of an international agreement or international law, inappropriate use of force by contractor personnel authorized to accompany the U.S. Armed Forces can subject such personnel to United States or host nation prosecution and civil liability (see paragraphs (d) and (j)(3) of this clause).

(4) Service performed by Contractor personnel subject to this clause is not active duty or service under 38 U.S.C. 106 note.

(c) Support. (1)(i) The Combatant Commander will develop a security plan for protection of Contractor personnel in locations where there is not sufficient or legitimate civil authority, when the Combatant Commander decides it is in the interests of the Government to provide security because--

(A) The Contractor cannot obtain effective security services;

(B) Effective security services are unavailable at a reasonable cost; or

(C) Threat conditions necessitate security through military means.

(ii) The Contracting Officer shall include in the contract the level of protection to be provided to Contractor personnel.

(iii) In appropriate cases, the Combatant Commander may provide security through military means, commensurate with the level of security provided DoD civilians.

(2)(i) Generally, all Contractor personnel authorized to accompany the U.S. Armed Forces in the designated operational area are authorized to receive resuscitative care, stabilization, hospitalization at level III military treatment facilities, and assistance with patient movement in emergencies where loss of life, limb, or eyesight could occur. Hospitalization will be limited to stabilization and short-term medical treatment with an emphasis on return to duty or placement in the patient movement system.

(ii) When the Government provides medical treatment or transportation of Contractor personnel to a selected civilian facility, the Contractor shall ensure that the Government is reimbursed for any costs associated with such treatment or transportation.

(iii) Medical or dental care beyond this standard is not authorized unless specified elsewhere in this contract.

(3) Unless specified elsewhere in this contract, the Contractor is responsible for all other support required for its personnel engaged in the designated operational area under this contract.

(4) Contractor personnel must have a letter of authorization issued by the Contracting Officer in order to process through a deployment center or to travel to, from, or within the designated operational area. The letter of authorization also will identify any additional authorizations, privileges, or Government support that Contractor personnel are entitled to under this contract.

(d) Compliance with laws and regulations. (1) The Contractor shall comply with, and shall ensure that its personnel authorized to accompany U.S. Armed Forces deployed outside the United States as specified in paragraph (b)(1) of this clause are familiar with and comply with, all applicable--

(i) United States, host country, and third country national laws;

(ii) Provisions of the law of war, as well as any other applicable treaties and international agreements;

(iii) United States regulations, directives, instructions, policies, and procedures; and

(iv) Orders, directives, and instructions issued by the Combatant Commander, including those relating to force protection, security, health, safety, or relations and interaction with local nationals.

(2) The Contractor shall institute and implement an effective program to prevent violations of the law of war by its employees and subcontractors, including law of war training in accordance with paragraph (e)(1)(vii) of this clause.

(e) Pre-deployment requirements.

(1) The Contractor shall ensure that the following requirements are met prior to deploying personnel authorized to accompany U.S. Armed Forces. Specific requirements for each category may be specified in the statement of work or elsewhere in the contract.

(i) All required security and background checks are complete and acceptable.

(ii) All deploying personnel meet the minimum medical screening requirements and have received all required immunizations as specified in the contract. The Government will provide, at no cost to the Contractor, any theater-specific immunizations and/or medications not available to the general public.

(iii) Deploying personnel have all necessary passports, visas, and other documents required to enter and exit a designated operational area and have a Geneva Conventions identification card, or other appropriate DoD identity credential, from the deployment center. Any Common Access Card issued to deploying personnel shall contain the access permissions allowed by the letter of authorization issued in accordance with paragraph (c)(4) of this clause.

(iv) Special area, country, and theater clearance is obtained for personnel. Clearance requirements are in DoD Directive 4500.54, Official Temporary Duty Abroad, and DoD 4500.54-G, DoD Foreign Clearance Guide. Contractor personnel are considered non-DoD personnel traveling under DoD sponsorship.

(v) All personnel have received personal security training. At a minimum, the training shall--

(A) Cover safety and security issues facing employees overseas;

(B) Identify safety and security contingency planning activities; and

(C) Identify ways to utilize safety and security personnel and other resources appropriately.

(vi) All personnel have received isolated personnel training, if specified in the contract, in accordance with DoD Instruction 1300.23, Isolated Personnel Training for DoD Civilian and Contractors.

(vii) Personnel have received law of war training as follows:

(A) Basic training is required for all Contractor personnel authorized to accompany U.S. Armed Forces deployed outside the United States. The basic training will be provided through--

(1) A military-run training center; or

(2) A Web-based source, if specified in the contract or approved by the Contracting Officer.

(B) Advanced training, commensurate with their duties and responsibilities, may be required for some Contractor personnel as specified in the contract.

(2) The Contractor shall notify all personnel who are not a host country national, or who are not ordinarily resident in the host country, that--

(i) Such employees, and dependents residing with such employees, who engage in conduct outside the United States that would constitute an offense punishable by imprisonment for more than one year if the conduct had been engaged in within the special maritime and territorial jurisdiction of the United States, may potentially be subject to the criminal jurisdiction of the United States in accordance with the Military Extraterritorial Jurisdiction Act of 2000 (18 U.S.C. 3621, et seq.);

(ii) Pursuant to the War Crimes Act (18 U.S.C. 2441), Federal criminal jurisdiction also extends to conduct that is determined to constitute a war crime when committed by a civilian national of the United States;

(iii) Other laws may provide for prosecution of U.S. nationals who commit offenses on the premises of U.S. diplomatic, consular, military or other U.S. Government missions outside the United States (18 U.S.C. 7(9)); and

(iv) In time of declared war or a contingency operation, Contractor personnel authorized to accompany U.S. Armed Forces in the field are subject to the jurisdiction of the Uniform Code of Military Justice under 10 U.S.C. 802(a)(10).

(f) Processing and departure points. Deployed Contractor personnel shall--

(1) Process through the deployment center designated in the contract, or as otherwise directed by the Contracting Officer, prior to deploying. The deployment center will conduct deployment processing to ensure visibility and accountability of Contractor personnel and to ensure that all deployment requirements are met, including the requirements specified in paragraph (e)(1) of this clause;

(2) Use the point of departure and transportation mode directed by the Contracting Officer; and

(3) Process through a Joint Reception Center (JRC) upon arrival at the deployed location. The JRC will validate personnel accountability, ensure that specific designated operational area entrance requirements are met, and brief Contractor personnel on theater-specific policies and procedures.

(g) Personnel data.

(1) The Contractor shall enter before deployment and maintain data for all Contractor personnel that are authorized to accompany U.S. Armed Forces deployed outside the United States as specified in paragraph (b)(1) of this clause. The Contractor shall use the Synchronized Predeployment and Operational Tracker (SPOT) web-based system, at <http://www.dod.mil/bta/products/spot.html>, to enter and maintain the data.

(2) The Contractor shall ensure that all employees in the database have a current DD Form 93, Record of Emergency Data Card, on file with both the Contractor and the designated Government official. The Contracting Officer will inform the Contractor of the Government official designated to receive this data card.

(h) Contractor personnel.

(1) The Contracting Officer may direct the Contractor, at its own expense, to remove and replace any Contractor personnel who jeopardize or interfere with mission accomplishment or who fail to comply with or violate applicable requirements of this contract. Such action may be taken at the Government's discretion without prejudice to its rights under any other provision of this contract, including the Termination for Default clause.

(2) The Contractor shall have a plan on file showing how the Contractor would replace employees who are unavailable for deployment or who need to be replaced during deployment. The Contractor shall keep this plan current and shall provide a copy to the Contracting Officer upon request. The plan shall--

(i) Identify all personnel who are subject to military mobilization;

(ii) Detail how the position would be filled if the individual were mobilized; and

(iii) Identify all personnel who occupy a position that the Contracting Officer has designated as mission essential.

(3) Contractor personnel shall report to the Combatant Commander or a designee, or through other channels such as the military police, a judge advocate, or an inspector general, any suspected or alleged conduct for which there is credible information that such conduct--

(i) Constitutes violation of the law of war; or

(ii) Occurred during any other military operations and would constitute a violation of the law of war if it occurred during an armed conflict.

(i) Military clothing and protective equipment.

(1) Contractor personnel are prohibited from wearing military clothing unless specifically authorized in writing by the Combatant Commander. If authorized to wear military clothing, Contractor personnel must--

(i) Wear distinctive patches, arm bands, nametags, or headgear, in order to be distinguishable from military personnel, consistent with force protection measures; and

(ii) Carry the written authorization with them at all times.

(2) Contractor personnel may wear military-unique organizational clothing and individual equipment (OCIE) required for safety and security, such as ballistic, nuclear, biological, or chemical protective equipment.

(3) The deployment center, or the Combatant Commander, shall issue OCIE and shall provide training, if necessary, to ensure the safety and security of Contractor personnel.

(4) The Contractor shall ensure that all issued OCIE is returned to the point of issue, unless otherwise directed by the Contracting Officer.

(j) Weapons.

(1) If the Contractor requests that its personnel performing in the designated operational area be authorized to carry weapons, the request shall be made through the Contracting Officer to the Combatant Commander, in accordance with DoD Instruction 3020.41, paragraph 6.3.4.1 or, if the contract is for security services, paragraph 6.3.5.3. The

Combatant Commander will determine whether to authorize in-theater Contractor personnel to carry weapons and what weapons and ammunition will be allowed.

(2) If the Contracting Officer, subject to the approval of the Combatant Commander, authorizes the carrying of weapons--

(i) The Contracting Officer may authorize the Contractor to issue Contractor-owned weapons and ammunition to specified employees; or

(ii) The **NOT APPLICABLE TO THIS CONTRACT** may issue Government-furnished weapons and ammunition to the Contractor for issuance to specified Contractor employees.

(3) The Contractor shall ensure that its personnel who are authorized to carry weapons--

(i) Are adequately trained to carry and use them--

(A) Safely;

(B) With full understanding of, and adherence to, the rules of the use of force issued by the Combatant Commander; and

(C) In compliance with applicable agency policies, agreements, rules, regulations, and other applicable law;

(ii) Are not barred from possession of a firearm by 18 U.S.C. 922; and

(iii) Adhere to all guidance and orders issued by the Combatant Commander regarding possession, use, safety, and accountability of weapons and ammunition.

(4) Whether or not weapons are Government-furnished, all liability for the use of any weapon by Contractor personnel rests solely with the Contractor and the Contractor employee using such weapon.

(5) Upon redeployment or revocation by the Combatant Commander of the Contractor's authorization to issue firearms, the Contractor shall ensure that all Government-issued weapons and unexpended ammunition are returned as directed by the Contracting Officer.

(k) Vehicle or equipment licenses. Contractor personnel shall possess the required licenses to operate all vehicles or equipment necessary to perform the contract in the designated operational area.

(l) Purchase of scarce goods and services. If the Combatant Commander has established an organization for the designated operational area whose function is to determine that certain items are scarce goods or services, the Contractor shall coordinate with that organization local purchases of goods and services designated as scarce, in accordance with instructions provided by the Contracting Officer.

(m) Evacuation.

(1) If the Combatant Commander orders a mandatory evacuation of some or all personnel, the Government will provide assistance, to the extent available, to United States and third country national Contractor personnel.

(2) In the event of a non-mandatory evacuation order, unless authorized in writing by the Contracting Officer, the Contractor shall maintain personnel on location sufficient to meet obligations under this contract.

(n) Next of kin notification and personnel recovery.

(1) The Contractor shall be responsible for notification of the employee-designated next of kin in the event an employee dies, requires evacuation due to an injury, or is isolated, missing, detained, captured, or abducted.

(2) In the case of isolated, missing, detained, captured, or abducted Contractor personnel, the Government will assist in personnel recovery actions in accordance with DoD Directive 3002.01E, Personnel Recovery in the Department of Defense.

(o) Mortuary affairs. Mortuary affairs for Contractor personnel who die while accompanying the U.S. Armed Forces will be handled in accordance with DoD Directive 1300.22, Mortuary Affairs Policy.

(p) Changes. In addition to the changes otherwise authorized by the Changes clause of this contract, the Contracting Officer may, at any time, by written order identified as a change order, make changes in the place of performance or Government-furnished facilities, equipment, material, services, or site. Any change order issued in accordance with this paragraph (p) shall be subject to the provisions of the Changes clause of this contract.

(q) Subcontracts. The Contractor shall incorporate the substance of this clause, including this paragraph (q), in all subcontracts when subcontractor personnel are authorized to accompany U.S. Armed Forces deployed outside the United States in--

(1) Contingency operations;

(2) Humanitarian or peacekeeping operations; or

(3) Other military operations or military exercises, when designated by the Combatant Commander.

(End of clause)

252.225-7041 CORRESPONDENCE IN ENGLISH (JUNE 1997)

The Contractor shall ensure that all contract correspondence that is addressed to the United States Government is submitted in English or with an English translation.

(End of clause)

252.225-7042 AUTHORIZATION TO PERFORM (APR 2003)

The offeror represents that it has been duly authorized to operate and to do business in the country or countries in which the contract is to be performed.

(End of provision)

252.225-7043 ANTITERRORISM/FORCE PROTECTION POLICY FOR DEFENSE CONTRACTORS OUTSIDE THE UNITED STATES (MAR 2006)

(a) Definition. United States, as used in this clause, means, the 50 States, the District of Columbia, and outlying areas.

(b) Except as provided in paragraph (c) of this clause, the Contractor and its subcontractors, if performing or traveling outside the United States under this contract, shall--

- (1) Affiliate with the Overseas Security Advisory Council, if the Contractor or subcontractor is a U.S. entity;
- (2) Ensure that Contractor and subcontractor personnel who are U.S. nationals and are in-country on a non-transitory basis, register with the U.S. Embassy, and that Contractor and subcontractor personnel who are third country nationals comply with any security related requirements of the Embassy of their nationality;
- (3) Provide, to Contractor and subcontractor personnel, antiterrorism/force protection awareness information commensurate with that which the Department of Defense (DoD) provides to its military and civilian personnel and their families, to the extent such information can be made available prior to travel outside the United States; and
- (4) Obtain and comply with the most current antiterrorism/force protection guidance for Contractor and subcontractor personnel.

(c) The requirements of this clause do not apply to any subcontractor that is--

- (1) A foreign government;
- (2) A representative of a foreign government; or
- (3) A foreign corporation wholly owned by a foreign government.

(d) Information and guidance pertaining to DoD antiterrorism/force protection can be obtained from **Headquarters Department of the Army (DAMO-ODL)/ODCSOP, Telephone DSN 224-4177 or Commercial 703-695-8491.**

(End of clause)

252.225-7044 BALANCE OF PAYMENTS PROGRAM--CONSTRUCTION MATERIAL (JAN 2009)

(a) Definitions. As used in this clause--

Commercially available off-the-shelf (COTS) item--

(1) Means any item of supply (including construction material) that is--

(i) A commercial item (as defined in paragraph (1) of the definition of "commercial item" in section 2.101 of the Federal Acquisition Regulation);

(ii) Sold in substantial quantities in the commercial marketplace; and

(iii) Offered to the Government, under a contract or subcontract at any tier, without modification, in the same form in which it is sold in the commercial marketplace; and

(2) Does not include bulk cargo, as defined in section 3 of the Shipping Act of 1984 (46 U.S.C. 40102), such as agricultural products and petroleum products.

“Component” means any article, material, or supply incorporated directly into construction material.

“Construction material” means an article, material, or supply brought to the construction site by the Contractor or a subcontractor for incorporation into the building or work. The term also includes an item brought to the site preassembled from articles, materials, or supplies. However, emergency life safety systems, such as emergency lighting, fire alarm, and audio evacuation systems, that are discrete systems incorporated into a public building or work and that are produced as complete systems, are evaluated as a single and distinct construction material regardless of when or how the individual parts or components of those systems are delivered to the construction site. Materials purchased directly by the Government are supplies, not construction material.

“Cost of components” means--

(1) For components purchased by the Contractor, the acquisition cost, including transportation costs to the place of incorporation into the end product (whether or not such costs are paid to a domestic firm), and any applicable duty (whether or not a duty-free entry certificate is issued); or

(2) For components manufactured by the Contractor, all costs associated with the manufacture of the component, including transportation costs as described in paragraph (1) of this definition, plus allocable overhead costs, but excluding profit. Cost of components does not include any costs associated with the manufacture of the construction material.

“Domestic construction material” means--

(1) An unmanufactured construction material mined or produced in the United States; or

(2) A construction material manufactured in the United States, if--

(i) The cost of its components mined, produced, or manufactured in the United States exceeds 50 percent of the cost of all its components. Components of foreign origin of the same class or kind for which nonavailability determinations have been made are treated as domestic; or

(ii) The construction material is a COTS item.

“United States” means the 50 States, the District of Columbia, and outlying areas.

(b) Domestic preference. This clause implements the Balance of Payments Program by providing a preference for domestic construction material. The Contractor shall use only domestic construction material in performing this contract, except for—

(1) Construction material valued at or below the simplified acquisition threshold in part 2 of the Federal Acquisition Regulation; or

(2) The construction material or components listed by the Government as follows:

TO BE DETERMINED AT TASK ORDER LEVEL

(End of clause)

(a) Definitions. As used in this clause--

Caribbean Basin country construction material means a construction material that--

- (1) Is wholly the growth, product, or manufacture of a Caribbean Basin country; or
- (2) In the case of a construction material that consists in whole or in part of materials from another country, has been substantially transformed in a Caribbean Basin country into a new and different construction material distinct from the materials from which it was transformed.

Commercially available off-the-shelf (COTS) item--

(1) Means any item of supply (including construction material) that is--

- (i) A commercial item (as defined in paragraph (1) of the definition of ``commercial item" in section 2.101 of the Federal Acquisition Regulation);
 - (ii) Sold in substantial quantities in the commercial marketplace; and
 - (iii) Offered to the Government, under a contract or subcontract at any tier, without modification, in the same form in which it is sold in the commercial marketplace; and
- (2) Does not include bulk cargo, as defined in section 3 of the Shipping Act of 1984 (46 U.S.C. 40102), such as agricultural products and petroleum products.

Component means any article, material, or supply incorporated directly into construction material.

Construction material means an article, material, or supply brought to the construction site by the Contractor or a subcontractor for incorporation into the building or work. The term also includes an item brought to the site preassembled from articles, materials, or supplies. However, emergency life safety systems, such as emergency lighting, fire alarm, and audio evacuation systems, that are discrete systems incorporated into a public building or work and that are produced as complete systems, are evaluated as a single and distinct construction material regardless of when or how the individual parts or components of those systems are delivered to the construction site. Materials purchased directly by the Government are supplies, not construction material.

Cost of components means--

- (1) For components purchased by the Contractor, the acquisition cost, including transportation costs to the place of incorporation into the end product (whether or not such costs are paid to a domestic firm), and any applicable duty (whether or not a duty-free entry certificate is issued); or
- (2) For components manufactured by the Contractor, all costs associated with the manufacture of the component, including transportation costs as described in paragraph (1) of this definition, plus allocable overhead costs, but excluding profit. Cost of components does not include any costs associated with the manufacture of the construction material.

Designated country means--

- (1)) A World Trade Organization Government Procurement Agreement (WTO GPA) country (Aruba, Austria, Belgium, Bulgaria, Canada, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hong Kong, Hungary, Iceland, Ireland, Israel, Italy, Japan, Korea (Republic of), Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Romania, Singapore, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Taiwan (known in the World Trade Organization as ``the Separate Customs Territory of Taiwan, Penghu, Kinmen, and Matsu" (Chinese Taipei)), or the United Kingdom);

(2) A Free Trade Agreement country (Australia, Bahrain, Canada, Chile, Costa Rica, Dominican Republic, El Salvador, Guatemala, Honduras, Mexico, Morocco, Nicaragua, Peru, or Singapore);

(3) A least developed country (Afghanistan, Angola, Bangladesh, Benin, Bhutan, Burkina Faso, Burundi, Cambodia, Central African Republic, Chad, Comoros, Democratic Republic of Congo, Djibouti, East Timor, Equatorial Guinea, Eritrea, Ethiopia, Gambia, Guinea, Guinea-Bissau, Haiti, Kiribati, Laos, Lesotho, Liberia, Madagascar, Malawi, Maldives, Mali, Mauritania, Mozambique, Nepal, Niger, Rwanda, Samoa, Sao Tome and Principe, Senegal, Sierra Leone, Solomon Islands, Somalia, Tanzania, Togo, Tuvalu, Uganda, Vanuatu, Yemen, or Zambia); or

(4) A Caribbean Basin country (Antigua and Barbuda, Aruba, Bahamas, Barbados, Belize, British Virgin Islands, Dominica, Grenada, Guyana, Haiti, Jamaica, Montserrat, Netherlands Antilles, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, or Trinidad and Tobago).

Designated country construction material means a construction material that is a WTO GPA country construction material, a Free Trade Agreement country construction material, a least developed country construction material, or a Caribbean Basin country construction material.

Domestic construction material means--

(1) An unmanufactured construction material mined or produced in the United States; or

(2) A construction material manufactured in the United States, if--

(i) The cost of its components mined, produced, or manufactured in the United States exceeds 50 percent of the cost of all its components. Components of foreign origin of the same class or kind for which nonavailability determinations have been made are treated as domestic; or

(ii) The construction material is a COTS item.

Free Trade Agreement country construction material means a construction material that--

(1) Is wholly the growth, product, or manufacture of a Free Trade Agreement country; or

(2) In the case of a construction material that consists in whole or in part of materials from another country, has been substantially transformed in a Free Trade Agreement country into a new and different construction material distinct from the material from which it was transformed.

Least developed country construction material means a construction material that--

(1) Is wholly the growth, product, or manufacture of a least developed country; or

(2) In the case of a construction material that consists in whole or in part of materials from another country has been substantially transformed in a least developed country into a new and different construction material distinct from the materials from which it was transformed.

United States means the 50 States, the District of Columbia, and outlying areas.

WTO GPA country construction material means a construction material that--

(1) Is wholly the growth, product, or manufacture of a WTO GPA country; or

(2) In the case of a construction material that consists in whole or in part of materials from another country, has been substantially transformed in a WTO GPA country into a new and different construction material distinct from the materials from which it was transformed.

(b) This clause implements the Balance of Payments Program by providing a preference for domestic construction material. In addition, the Contracting Officer has determined that the WTO GPA and Free Trade Agreements apply to this acquisition. Therefore, the Balance of Payments Program restrictions are waived for designated country construction materials.

(c) The Contractor shall use only domestic or designated country construction material in performing this contract, except for--

(1) Construction material valued at or below the simplified acquisition threshold in part 2 of the Federal Acquisition Regulation; or

(2) The construction material or components listed by the Government as follows:

TO BE DETERMINED IN TASK ORDER

(End of clause)

CLAUSES INCORPORATED BY FULL TEXT

252.225-7997 ADDITIONAL REQUIREMENTS AND RESPONSIBILITIES RELATING TO ALLEGED CRIMES BY OR AGAINST CONTRACTOR PERSONNEL IN IRAQ AND AFGHANISTAN (DEV 2009) (DEVIATION)

(a) The Contractor shall report to the appropriate investigative authorities any alleged offenses under—

(1) The Uniform Code of Military Justice (chapter 47 of title 10, United States code) (applicable to contractors serving with or accompanying an armed force in the field during a declared war or a contingency operation); or

(2) The Military Extraterritorial Jurisdiction Act (chapter 212 of title 18, United States Code).

(b) The Contractor shall provide to all contractor personnel who will perform work on a contract in Iraq or Afghanistan, before beginning such work, information on the following:

(1) How and where to report an alleged crime described in paragraph (a) of this clause.

(2) Where to seek victim and witness protection and assistance available to contractor personnel in connection with an alleged offense described in paragraph (a) of this clause.

(End of clause)

CLAUSES INCORPORATED BY FULL TEXT

252.227-7013 RIGHTS IN TECHNICAL DATA--NONCOMMERCIAL ITEMS. (NOV 1995)

(a) Definitions. As used in this clause:

(1) Computer data base means a collection of data recorded in a form capable of being processed by a computer. The term does not include computer software.

(2) Computer program means a set of instructions, rules, or routines recorded in a form that is capable of causing a computer to perform a specific operation or series of operations.

(3) Computer software means computer programs, source code, source code listings, object code listings, design details, algorithms, processes, flow charts, formulae and related material that would enable the software to be reproduced, recreated, or recompiled. Computer software does not include computer data bases or computer software documentation.

(4) Computer software documentation means owner's manuals, user's manuals, installation instructions, operating instructions, and other similar items, regardless of storage medium, that explain the capabilities of the computer software or provide instructions for using the software.

(5) Detailed manufacturing or process data means technical data that describe the steps, sequences, and conditions of manufacturing, processing or assembly used by the manufacturer to produce an item or component or to perform a process.

(6) Developed means that an item, component, or process exists and is workable. Thus, the item or component must have been constructed or the process practiced. Workability is generally established when the item, component, or process has been analyzed or tested sufficiently to demonstrate to reasonable people skilled in the applicable art that there is a high probability that it will operate as intended. Whether, how much, and what type of analysis or testing is required to establish workability depends on the nature of the item, component, or process, and the state of the art. To be considered "developed," the item, component, or process need not be at the stage where it could be offered for sale or sold on the commercial market, nor must the item, component, or process be actually reduced to practice within the meaning of Title 35 of the United States Code.

(7) Developed exclusively at private expense means development was accomplished entirely with costs charged to indirect cost pools, costs not allocated to a government contract, or any combination thereof.

(i) Private expense determinations should be made at the lowest practicable level.

(ii) Under fixed-price contracts, when total costs are greater than the firm-fixed-price or ceiling price of the contract, the additional development costs necessary to complete development shall not be considered when determining whether development was at government, private, or mixed expense.

(8) Developed exclusively with government funds means development was not accomplished exclusively or partially at private expense.

(9) Developed with mixed funding means development was accomplished partially with costs charged to indirect cost pools and/or costs not allocated to a government contract, and partially with costs charged directly to a government contract.

(10) Form, fit, and function data means technical data that describes the required overall physical, functional, and performance characteristics (along with the qualification requirements, if applicable) of an item, component, or process to the extent necessary to permit identification of physically and functionally interchangeable items.

(11) Government purpose means any activity in which the United States Government is a party, including cooperative agreements with international or multi-national defense organizations, or sales or transfers by the United States Government to foreign governments or international organizations. Government purposes include competitive

procurement, but do not include the rights to use, modify, reproduce, release, perform, display, or disclose technical data for commercial purposes or authorize others to do so.

(12) Government purpose rights means the rights to--

(i) Use, modify, reproduce, release, perform, display, or disclose technical data within the Government without restriction; and

(ii) Release or disclose technical data outside the Government and authorize persons to whom release or disclosure has been made to use, modify, reproduce, release, perform, display, or disclose that data for United States government purposes.

(13) Limited rights means the rights to use, modify, reproduce, release, perform, display, or disclose technical data, in whole or in part, within the Government. The Government may not, without the written permission of the party asserting limited rights, release or disclose the technical data outside the Government, use the technical data for manufacture, or authorize the technical data to be used by another party, except that the Government may reproduce, release or disclose such data or authorize the use or reproduction of the data by persons outside the Government if reproduction, release, disclosure, or use is--

(i) Necessary for emergency repair and overhaul; or

(ii) A release or disclosure of technical data (other than detailed manufacturing or process data) to, or use of such data by, a foreign government that is in the interest of the Government and is required for evaluational or informational purposes;

(iii) Subject to a prohibition on the further reproduction, release, disclosure, or use of the technical data; and

(iv) The contractor or subcontractor asserting the restriction is notified of such reproduction, release, disclosure, or use.

(14) Technical data means recorded information, regardless of the form or method of the recording, of a scientific or technical nature (including computer software documentation). The term does not include computer software or data incidental to contract administration, such as financial and/or management information.

(15) Unlimited rights means rights to use, modify, reproduce, perform, display, release, or disclose technical data in whole or in part, in any manner, and for any purpose whatsoever, and to have or authorize others to do so.

(b) Rights in technical data. The Contractor grants or shall obtain for the Government the following royalty free, world-wide, nonexclusive, irrevocable license rights in technical data other than computer software documentation (see the Rights in Noncommercial Computer Software and Noncommercial Computer Software Documentation clause of this contract for rights in computer software documentation):

(1) Unlimited rights.

The Government shall have unlimited rights in technical data that are--

(i) Data pertaining to an item, component, or process which has been or will be developed exclusively with Government funds;

(ii) Studies, analyses, test data, or similar data produced for this contract, when the study, analysis, test, or similar work was specified as an element of performance;

(iii) Created exclusively with Government funds in the performance of a contract that does not require the development, manufacture, construction, or production of items, components, or processes;

(iv) Form, fit, and function data;

(v) Necessary for installation, operation, maintenance, or training purposes (other than detailed manufacturing or process data);

(vi) Corrections or changes to technical data furnished to the Contractor by the Government;

(vii) Otherwise publicly available or have been released or disclosed by the Contractor or subcontractor without restrictions on further use, release or disclosure, other than a release or disclosure resulting from the sale, transfer, or other assignment of interest in the technical data to another party or the sale or transfer of some or all of a business entity or its assets to another party;

(viii) Data in which the Government has obtained unlimited rights under another Government contract or as a result of negotiations; or

(ix) Data furnished to the Government, under this or any other Government contract or subcontract thereunder, with-

(A) Government purpose license rights or limited rights and the restrictive condition(s) has/have expired; or

(B) Government purpose rights and the Contractor's exclusive right to use such data for commercial purposes has expired.

(2) Government purpose rights.

(i) The Government shall have government purpose rights for a five-year period, or such other period as may be negotiated, in technical data--

(A) That pertain to items, components, or processes developed with mixed funding except when the Government is entitled to unlimited rights in such data as provided in paragraphs (b)(ii) and (b)(iv) through (b)(ix) of this clause; or

(B) Created with mixed funding in the performance of a contract that does not require the development, manufacture, construction, or production of items, components, or processes.

(ii) The five-year period, or such other period as may have been negotiated, shall commence upon execution of the contract, subcontract, letter contract (or similar contractual instrument), contract modification, or option exercise that required development of the items, components, or processes or creation of the data described in paragraph (b)(2)(i)(B) of this clause. Upon expiration of the five-year or other negotiated period, the Government shall have unlimited rights in the technical data.

(iii) The Government shall not release or disclose technical data in which it has government purpose rights unless-

(A) Prior to release or disclosure, the intended recipient is subject to the non-disclosure agreement at 227.7103-7 of the Defense Federal Acquisition Regulation Supplement (DFARS); or

(B) The recipient is a Government contractor receiving access to the data for performance of a Government contract that contains the clause at DFARS 252.227-7025, Limitations on the Use or Disclosure of Government-Furnished Information Marked with Restrictive Legends.

(iv) The Contractor has the exclusive right, including the right to license others, to use technical data in which the Government has obtained government purpose rights under this contract for any commercial purpose during the time period specified in the government purpose rights legend prescribed in paragraph (f)(2) of this clause.

(3) Limited rights.

(i) Except as provided in paragraphs (b)(1)(ii) and (b)(1)(iv) through (b)(1)(ix) of this clause, the Government shall have limited rights in technical data--

(A) Pertaining to items, components, or processes developed exclusively at private expense and marked with the limited rights legend prescribed in paragraph (f) of this clause; or

(B) Created exclusively at private expense in the performance of a contract that does not require the development, manufacture, construction, or production of items, components, or processes.

(ii) The Government shall require a recipient of limited rights data for emergency repair or overhaul to destroy the data and all copies in its possession promptly following completion of the emergency repair/overhaul and to notify the Contractor that the data have been destroyed.

(iii) The Contractor, its subcontractors, and suppliers are not required to provide the Government additional rights to use, modify, reproduce, release, perform, display, or disclose technical data furnished to the Government with limited rights. However, if the Government desires to obtain additional rights in technical data in which it has limited rights, the Contractor agrees to promptly enter into negotiations with the Contracting Officer to determine whether there are acceptable terms for transferring such rights. All technical data in which the Contractor has granted the Government additional rights shall be listed or described in a license agreement made part of the contract. The license shall enumerate the additional rights granted the Government in such data.

(4) Specifically negotiated license rights.

The standard license rights granted to the Government under paragraphs (b)(1) through (b)(3) of this clause, including the period during which the Government shall have government purpose rights in technical data, may be modified by mutual agreement to provide such rights as the parties consider appropriate but shall not provide the Government lesser rights than are enumerated in paragraph (a)(13) of this clause. Any rights so negotiated shall be identified in a license agreement made part of this contract.

(5) Prior government rights.

Technical data that will be delivered, furnished, or otherwise provided to the Government under this contract, in which the Government has previously obtained rights shall be delivered, furnished, or provided with the pre-existing rights, unless--

(i) The parties have agreed otherwise; or

(ii) Any restrictions on the Government's rights to use, modify, reproduce, release, perform, display, or disclose the data have expired or no longer apply.

(6) Release from liability.

The Contractor agrees to release the Government from liability for any release or disclosure of technical data made in accordance with paragraph (a)(13) or (b)(2)(iii) of this clause, in accordance with the terms of a license negotiated under paragraph (b)(4) of this clause, or by others to whom the recipient has released or disclosed the data and to seek relief solely from the party who has improperly used, modified, reproduced, released, performed, displayed, or disclosed Contractor data marked with restrictive legends.

(c) Contractor rights in technical data. All rights not granted to the Government are retained by the Contractor.

(d) Third party copyrighted data. The Contractor shall not, without the written approval of the Contracting Officer, incorporate any copyrighted data in the technical data to be delivered under this contract unless the Contractor is the

copyright owner or has obtained for the Government the license rights necessary to perfect a license or licenses in the deliverable data of the appropriate scope set forth in paragraph (b) of this clause, and has affixed a statement of the license or licenses obtained on behalf of the Government and other persons to the data transmittal document.

(e) Identification and delivery of data to be furnished with restrictions on use, release, or disclosure. (1) This paragraph does not apply to restrictions based solely on copyright.

(2) Except as provided in paragraph (e)(3) of this clause, technical data that the Contractor asserts should be furnished to the Government with restrictions on use, release, or disclosure are identified in an attachment to this contract (the Attachment). The Contractor shall not deliver any data with restrictive markings unless the data are listed on the Attachment.

(3) In addition to the assertions made in the Attachment, other assertions may be identified after award when based on new information or inadvertent omissions unless the inadvertent omissions would have materially affected the source selection decision. Such identification and assertion shall be submitted to the Contracting Officer as soon as practicable prior to the scheduled date for delivery of the data, in the following format, and signed by an official authorized to contractually obligate the Contractor: Identification and Assertion of Restrictions on the Government's Use, Release, or Disclosure of Technical Data.

The Contractor asserts for itself, or the persons identified below, that the Government's rights to use, release, or disclose the following technical data should be restricted--

| Technical data to be Furnished With Restrictions \1/ | Basis for Assertion \2/ | Asserted Rights Category \3/ | Name of Person Asserting Restrictions \4/ |
|--|----------------------------|------------------------------------|---|
| (LIST) | (LIST) | (LIST) | (LIST) |

\1/ If the assertion is applicable to items, components or processes developed at private expense, identify both the data and each such items, component, or process.

\2/ Generally, the development of an item, component, or process at private expense, either exclusively or partially, is the only basis for asserting restrictions on the Government's rights to use, release, or disclose technical data pertaining to such items, components, or processes. Indicate whether development was exclusively or partially at private expense. If development was not at private expense, enter the specific reason for asserting that the Government's rights should be restricted.

\3/ Enter asserted rights category (e.g., government purpose license rights from a prior contract, rights in SBIR data generated under another contract, limited or government purpose rights under this or a prior contract, or specifically negotiated licenses).

\4/ Corporation, individual, or other person, as appropriate.

Date _____

Printed Name and Title _____

Signature _____

(End of identification and assertion)

(4) When requested by the Contracting Officer, the Contractor shall provide sufficient information to enable the Contracting Officer to evaluate the Contractor's assertions. The Contracting Officer reserves the right to add the Contractor's assertions to the Attachment and validate any listed assertion, at a later date, in accordance with the procedures of the Validation of Restrictive Markings on Technical Data clause of this contract.

(f) Marking requirements. The Contractor, and its subcontractors or suppliers, may only assert restrictions on the Government's rights to use, modify, reproduce, release, perform, display, or disclose technical data to be delivered under this contract by marking the deliverable data subject to restriction. Except as provided in paragraph (f)(5) of this clause, only the following legends are authorized under this contract: the government purpose rights legend at paragraph (f)(2) of this clause; the limited rights legend at paragraph (f)(3) of this clause; or the special license rights legend at paragraph (f)(4) of this clause; and/or a notice of copyright as prescribed under 17 U.S.C. 401 or 402.

(1) General marking instructions. The Contractor, or its subcontractors or suppliers, shall conspicuously and legibly mark the appropriate legend on all technical data that qualify for such markings. The authorized legends shall be placed on the transmittal document or storage container and, for printed material, each page of the printed material containing technical data for which restrictions are asserted. When only portions of a page of printed material are subject to the asserted restrictions, such portions shall be identified by circling, underscoring, with a note, or other appropriate identifier. Technical data transmitted directly from one computer or computer terminal to another shall contain a notice of asserted restrictions. Reproductions of technical data or any portions thereof subject to asserted restrictions shall also reproduce the asserted restrictions.

(2) Government purpose rights markings. Data delivered or otherwise furnished to the Government purpose rights shall be marked as follows:

Government Purpose Rights

Contract No. _____

Contractor Name _____

Contractor Address _____

Expiration Date _____

The Government's rights to use, modify, reproduce, release, perform, display, or disclose these technical data are restricted by paragraph (b)(2) of the Rights in Technical Data--Noncommercial Items clause contained in the above identified contract. No restrictions apply after the expiration date shown above. Any reproduction of technical data or portions thereof marked with this legend must also reproduce the markings.

(End of legend)

(3) Limited rights markings. Data delivered or otherwise furnished to the Government with limited rights shall be marked with the following legend:

Limited Rights

Contract No. _____

Contractor Name _____

Contractor Address _____

The Government's rights to use, modify, reproduce, release, perform, display, or disclose these technical data are restricted by paragraph (b)(3) of the Rights in Technical Data--Noncommercial Items clause contained in the above identified contract. Any reproduction of technical data or portions thereof marked with this legend must also reproduce the markings. Any person, other than the Government, who has been provided access to such data must promptly notify the above named Contractor.

(End of legend)

(4) Special license rights markings. (i) Data in which the Government's rights stem from a specifically negotiated license shall be marked with the following legend:

Special License Rights

The Government's rights to use, modify, reproduce, release, perform, display, or disclose these data are restricted by Contract No. _____ (Insert contract number) _____, License No. _____ (Insert license identifier) _____. Any reproduction of technical data or portions thereof marked with this legend must also reproduce the markings.

(End of legend)

(ii) For purposes of this clause, special licenses do not include government purpose license rights acquired under a prior contract (see paragraph (b)(5) of this clause).

(5) Pre-existing data markings. If the terms of a prior contract or license permitted the Contractor to restrict the Government's rights to use, modify, reproduce, release, perform, display, or disclose technical data deliverable under this contract, and those restrictions are still applicable, the Contractor may mark such data with the appropriate restrictive legend for which the data qualified under the prior contract or license. The marking procedures in paragraph (f)(1) of this clause shall be followed.

(g) Contractor procedures and records. Throughout performance of this contract, the Contractor and its subcontractors or suppliers that will deliver technical data with other than unlimited rights, shall--

(1) Have, maintain, and follow written procedures sufficient to assure that restrictive markings are used only when authorized by the terms of this clause; and

(2) Maintain records sufficient to justify the validity of any restrictive markings on technical data delivered under this contract.

(h) Removal of unjustified and nonconforming markings. (1) Unjustified technical data markings. The rights and obligations of the parties regarding the validation of restrictive markings on technical data furnished or to be furnished under this contract are contained in the Validation of Restrictive Markings on Technical Data clause of this contract. Notwithstanding any provision of this contract concerning inspection and acceptance, the Government may ignore or, at the Contractor's expense, correct or strike a marking if, in accordance with the procedures in the Validation of Restrictive Markings on Technical Data clause of this contract, a restrictive marking is determined to be unjustified.

(2) Nonconforming technical data markings. A nonconforming marking is a marking placed on technical data delivered or otherwise furnished to the Government under this contract that is not in the format authorized by this contract. Correction of nonconforming markings is not subject to the validation of Restrictive Markings on Technical Data clause of this contract. If the Contracting Officer notifies the Contractor of a nonconforming marking and the Contractor fails to remove or correct such marking within sixty (60) days, the Government may ignore or, at the Contractor's expense, remove or correct any nonconforming marking.

(i) Relation to patents. Nothing contained in this clause shall imply a license to the Government under any patent or be construed as affecting the scope of any license or other right otherwise granted to the Government under any patent.

(j) Limitation on charges for rights in technical data. (1) The Contractor shall not charge to this contract any cost, including, but not limited to, license fees, royalties, or similar charges, for rights in technical data to be delivered under this contract when--

(i) The Government has acquired, by any means, the same or greater rights in the data; or

(ii) The data are available to the public without restrictions.

(2) The limitation in paragraph (j)(1) of this clause--

(i) Includes costs charged by a subcontractor or supplier, at any tier, or costs incurred by the Contractor to acquire rights in subcontractor or supplier technical data, if the subcontractor or supplier has been paid for such rights under any other Government contract or under a license conveying the rights to the Government; and

(ii) Does not include the reasonable costs of reproducing, handling, or mailing the documents or other media in which the technical data will be delivered.

(k) Applicability to subcontractors or suppliers. (1) The Contractor shall ensure that the rights afforded its subcontractors and suppliers under 10 U.S.C. 2320, 10 U.S.C. 2321, and the identification, assertion, and delivery processes of paragraph (e) of this clause are recognized and protected.

(2) Whenever any technical data for noncommercial items is to be obtained from a subcontractor or supplier for delivery to the Government under this contract, the Contractor shall use this same clause in the subcontract or other contractual instrument, and require its subcontractors or suppliers to do so, without alteration, except to identify the parties. No other clause shall be used to enlarge or diminish the Government's, the Contractor's, or a higher-tier subcontractor's or supplier's rights in a subcontractor's or supplier's technical data.

(3) Technical data required to be delivered by a subcontractor or supplier shall normally be delivered to the next higher-tier contractor, subcontractor, or supplier. However, when there is a requirement in the prime contract for data which may be submitted with other than unlimited rights by a subcontractor or supplier, then said subcontractor or supplier may fulfill its requirement by submitting such data directly to the Government, rather than through a higher-tier contractor, subcontractor, or supplier.

(4) The Contractor and higher-tier subcontractors or suppliers shall not use their power to award contracts as economic leverage to obtain rights in technical data from their subcontractors or suppliers. (5) In no event shall the Contractor use its obligation to recognize and protect subcontractor or supplier rights in technical data as an excuse for failing to satisfy its contractual obligations to the Government.

(End of clause)

252.227-7014 RIGHTS IN NONCOMMERCIAL COMPUTER SOFTWARE AND NONCOMMERCIAL COMPUTER SOFTWARE DOCUMENTATION. (JUN 1995)

(a) Definitions. As used in this clause:

(1) Commercial computer software means software developed or regularly used for nongovernmental purposes which--

(i) Has been sold, leased, or licensed to the public;

(ii) Has been offered for sale, lease, or license to the public;

(iii) Has not been offered, sold, leased, or licensed to the public but will be available for commercial sale, lease, or license in time to satisfy the delivery requirements of this contract; or

(iv) Satisfies a criterion expressed in paragraph (a)(1) (i), (ii), or (iii) of this clause and would require only minor modification to meet the requirements of this contract.

(2) Computer database means a collection of recorded data in a form capable of being processed by a computer. The term does not include computer software.

(3) Computer program means a set of instructions, rules, or routines, recorded in a form that is capable of causing a computer to perform a specific operation or series of operations.

(4) Computer software means computer programs, source code, source code listings, object code listings, design details, algorithms, processes, flow charts, formulae, and related material that would enable the software to be reproduced, recreated, or recompiled. Computer software does not include computer databases or computer software documentation.

(5) Computer software documentation means owner's manuals, user's manuals, installation instructions, operating instructions, and other similar items, regardless of storage medium, that explain the capabilities of the computer software or provide instructions for using the software.

(6) Developed means that--

(i) A computer program has been successfully operated in a computer and tested to the extent sufficient to demonstrate to reasonable persons skilled in the art that the program can reasonably be expected to perform its intended purpose;

(ii) Computer software, other than computer programs, has been tested or analyzed to the extent sufficient to demonstrate to reasonable persons skilled in the art that the software can reasonably be expected to perform its intended purpose; or

(iii) Computer software documentation required to be delivered under a contract has been written, in any medium, in sufficient detail to comply with requirements under that contract.

(7) Developed exclusively at private expense means development was accomplished entirely with costs charged to indirect cost pools, costs not allocated to a government contract, or any combination thereof.

(i) Private expense determinations should be made at the lowest practicable level.

(ii) Under fixed-price contracts, when total costs are greater than the firm-fixed-price or ceiling price of the contract, the additional development costs necessary to complete development shall not be considered when determining whether development was at government, private, or mixed expense.

(8) Developed exclusively with government funds means development was not accomplished exclusively or partially at private expense.

(9) Developed with mixed funding means development was accomplished partially with costs charged to indirect

cost pools and/or costs not allocated to a government contract, and partially with costs charged directly to a government contract.

(10) Government purpose means any activity in which the United States Government is a party, including cooperative agreements with international or multi-national defense organizations or sales or transfers by the United States Government to foreign governments or international organizations. Government purposes include competitive procurement, but do not include the rights to use, modify, reproduce, release, perform, display, or disclose computer software or computer software documentation for commercial purposes or authorize others to do so.

(11) Government purpose rights means the rights to--

(i) Use, modify, reproduce, release, perform, display, or disclose computer software or computer software documentation within the Government without restriction; and

(ii) Release or disclose computer software or computer software documentation outside the Government and authorize persons to whom release or disclosure has been made to use, modify, reproduce, release, perform, display, or disclose the software or documentation for United States government purposes.

(12) Minor modification means a modification that does not significantly alter the nongovernmental function or purpose of the software or is of the type customarily provided in the commercial marketplace.

(13) Noncommercial computer software means software that does not qualify as commercial computer software under paragraph (a)(1) of this clause.

(14) Restricted rights apply only to noncommercial computer software and mean the Government's rights to--

(i) Use a computer program with one computer at one time. The program may not be accessed by more than one terminal or central processing unit or time shared unless otherwise permitted by this contract;

(ii) Transfer a computer program to another Government agency without the further permission of the Contractor if the transferor destroys all copies of the program and related computer software documentation in its possession and notifies the licensor of the transfer. Transferred programs remain subject to the provisions of this clause;

(iii) Make the minimum number of copies of the computer software required for safekeeping (archive), backup, or modification purposes;

(iv) Modify computer software provided that the Government may--

(A) Use the modified software only as provided in paragraphs (a)(14) (i) and (iii) of this clause; and

(B) Not release or disclose the modified software except as provided in paragraphs (a)(14) (ii), (v) and (vi) of this clause;

(v) Permit contractors or subcontractors performing service contracts (see 37.101 of the Federal Acquisition Regulation) in support of this or a related contract to use computer software to diagnose and correct deficiencies in a computer program, to modify computer software to enable a computer program to be combined with, adapted to, or merged with other computer programs or when necessary to respond to urgent tactical situations, provided that--

(A) The Government notifies the party which has granted restricted rights that a release or disclosure to particular contractors or subcontractors was made;

(B) Such contractors or subcontractors are subject to the use and non-disclosure agreement at 227.7103-7 of the Defense Federal Acquisition Regulation Supplement (DFARS) or are Government contractors receiving access to the software for performance of a Government contract that contains the clause at DFARS 252.227-7025,

Limitations on the Use or Disclosure of Government-Furnished Information Marked with Restrictive Legends;

(C) The Government shall not permit the recipient to decompile, disassemble, or reverse engineer the software, or use software decompiled, disassembled, or reverse engineered by the Government pursuant to paragraph (a)(14)(iv) of this clause, for any other purpose; and

(D) Such use is subject to the limitation in paragraph (a)(14)(i) of this clause; and

(vi) Permit contractors or subcontractors performing emergency repairs or overhaul of items or components of items procured under this or a related contract to use the computer software when necessary to perform the repairs or overhaul, or to modify the computer software to reflect the repairs or overhaul made, provided that--

(A) The intended recipient is subject to the use and nondisclosure agreement at DFARS 227.7103-7 or is a Government contractor receiving access to the software for performance of a Government contract that contains the clause at DFARS 252.227-7025, Limitations on the Use or Disclosure of Government-Furnished Information Marked with Restrictive Legends; and

(B) The Government shall not permit the recipient to decompile, disassemble, or reverse engineer the software, or use software decompiled, disassembled, or reverse engineered by the Government pursuant to paragraph (a)(14)(iv) of this clause, for any other purpose.

(15) Unlimited rights means rights to use, modify, reproduce, release, perform, display, or disclose computer software or computer software documentation in whole or in part, in any manner and for any purpose whatsoever, and to have or authorize others to do so.

(b) Rights in computer software or computer software documentation. The Contractor grants or shall obtain for the Government the following royalty free, world-wide, nonexclusive, irrevocable license rights in noncommercial computer software or computer software documentation. All rights not granted to the Government are retained by the Contractor.

(1) Unlimited rights. The Government shall have unlimited rights in--

(i) Computer software developed exclusively with Government funds;

(ii) Computer software documentation required to be delivered under this contract;

(iii) Corrections or changes to computer software or computer software documentation furnished to the Contractor by the Government;

(iv) Computer software or computer software documentation that is otherwise publicly available or has been released or disclosed by the Contractor or subcontractor without restriction on further use, release or disclosure, other than a release or disclosure resulting from the sale, transfer, or other assignment of interest in the software to another party or the sale or transfer of some or all of a business entity or its assets to another party;

(v) Computer software or computer software documentation obtained with unlimited rights under another Government contract or as a result of negotiations; or

(vi) Computer software or computer software documentation furnished to the Government, under this or any other Government contract or subcontract thereunder with--

(A) Restricted rights in computer software, limited rights in technical data, or government purpose license rights and the restrictive conditions have expired; or

(B) Government purpose rights and the Contractor's exclusive right to use such software or documentation for

commercial purposes has expired.

(2) Government purpose rights. (i) Except as provided in paragraph (b)(1) of this clause, the Government shall have government purpose rights in computer software development with mixed funding.

(ii) Government purpose rights shall remain in effect for a period of five years unless a different period has been negotiated. Upon expiration of the five-year or other negotiated period, the Government shall have unlimited rights in the computer software or computer software documentation. The government purpose rights period shall commence upon execution of the contract, subcontract, letter contract (or similar contractual instrument), contract modification, or option exercise that required development of the computer software.

(iii) The Government shall not release or disclose computer software in which it has government purpose rights to any other person unless--

(A) Prior to release or disclosure, the intended recipient is subject to the use and non-disclosure agreement at DFARS 227.7103-7; or

(B) The recipient is a Government contractor receiving access to the software or documentation for performance of a Government contract that contains the clause at DFARS 252.227-7025, Limitations on the Use or Disclosure of Government Furnished Information Marked with Restrictive Legends.

(3) Restricted rights. (i) The Government shall have restricted rights in noncommercial computer software required to be delivered or otherwise provided to the Government under this contract that were developed exclusively at private expense.

(ii) The Contractor, its subcontractors, or suppliers are not required to provide the Government additional rights in noncommercial computer software delivered or otherwise provided to the Government with restricted rights. However, if the Government desires to obtain additional rights in such software, the Contractor agrees to promptly enter into negotiations with the Contracting Officer to determine whether there are acceptable terms for transferring such rights. All noncommercial computer software in which the Contractor has granted the Government additional rights shall be listed or described in a license agreement made part of the contract (see paragraph (b)(4) of this clause). The license shall enumerate the additional rights granted the Government.

(4) Specifically negotiated license rights. (i) The standard license rights granted to the Government under paragraphs (b)(1) through (b)(3) of this clause, including the period during which the Government shall have government purpose rights in computer software, may be modified by mutual agreement to provide such rights as the parties consider appropriate but shall not provide the Government lesser rights in computer software than are enumerated in paragraph (a)(14) of this clause or lesser rights in computer software documentation than are enumerated in paragraph (a)(13) of the Rights in Technical Data--Noncommercial Items clause of this contract.

(ii) Any rights so negotiated shall be identified in a license agreement made part of this contract.

(5) Prior government rights. Computer software or computer software documentation that will be delivered, furnished, or otherwise provided to the Government under this contract, in which the Government has previously obtained rights shall be delivered, furnished, or provided with the pre-existing rights, unless--

(i) The parties have agreed otherwise; or

(ii) Any restrictions on the Government's rights to use, modify, reproduce, release, perform, display, or disclose the data have expired or no longer apply.

(6) Release from liability. The Contractor agrees to release the Government from liability for any release or disclosure of computer software made in accordance with paragraph (a)(14) or (b)(2)(iii) of this clause, in accordance with the terms of a license negotiated under paragraph (b)(4) of this clause, or by others to whom the

recipient has released or disclosed the software, and to seek relief solely from the party who has improperly used, modified, reproduced, released, performed, displayed, or disclosed Contractor software marked with restrictive legends.

(c) Rights in derivative computer software or computer software documentation. The Government shall retain its rights in the unchanged portions of any computer software or computer software documentation delivered under this contract that the Contractor uses to prepare, or includes in, derivative computer software or computer software documentation.

(d) Third party copyrighted computer software or computer software documentation. The Contractor shall not, without the written approval of the Contracting Officer, incorporate any copyrighted computer software or computer software documentation in the software or documentation to be delivered under this contract unless the Contractor is the copyright owner or has obtained for the Government the license rights necessary to perfect a license or licenses in the deliverable software or documentation of the appropriate scope set forth in paragraph (b) of this clause, and prior to delivery of such--

(1) Computer software, has provided a statement of the license rights obtained in a form acceptable to the Contracting Officer; or

(2) Computer software documentation, has affixed to the transmittal document a statement of the license rights obtained.

(e) Identification and delivery of computer software and computer software documentation to be furnished with restrictions on use, release, or disclosure. (1) This paragraph does not apply to restrictions based solely on copyright.

(2) Except as provided in paragraph (e)(3) of this clause, computer software that the Contractor asserts should be furnished to the Government with restrictions on use, release, or disclosure is identified in an attachment to this contract (the Attachment). The Contractor shall not deliver any software with restrictive markings unless the software is listed on the Attachment.

(3) In addition to the assertions made in the Attachment, other assertions may be identified after award when based on new information or inadvertent omissions unless the inadvertent omissions would have materially affected the source selection decision. Such identification and assertion shall be submitted to the Contracting Officer as soon as practicable prior to the scheduled data for delivery of the software, in the following format, and signed by an official authorized to contractually obligate the Contractor: Identification and Assertion of Restrictions on the Government's Use, Release, or Disclosure of Computer Software.

The Contractor asserts for itself, or the persons identified below, that the Government's rights to use, release, or disclose the following computer software should be restricted:

| Computer Software to be Furnished With Restrictions * | Basis for Assertion ** | Asserted Rights Category *** | Name of Person Asserting Restrictions **** |
|---|------------------------|------------------------------|--|
|---|------------------------|------------------------------|--|

| | | | |
|-------|-------|-------|-------|
| _____ | _____ | _____ | _____ |
|-------|-------|-------|-------|

* Generally, development at private expense, either exclusively or partially, is the only basis for asserting restrictions on the Government's rights to use, release, or disclose computer software.

** Indicate whether development was exclusively or partially at private expense. If development was not a private expense, enter the specific reason for asserting that the Government's rights should be restricted.

*** Enter asserted rights category (e.g., restricted or government purpose rights in computer software, government purpose license rights a prior contract, rights in SBIR software generated under another contract, or specifically negotiated licenses).

**** Corporation, individual, or other person, as appropriate.

Date

Printed Name and Title

Signature

End of identification and assertion)

(4) When requested by the Contracting Officer, the Contractor shall provide sufficient information to enable the Contracting Officer to evaluate the Contractor's assertions. The Contracting Officer reserves the right to add the Contractor's assertions to the Attachment and validate any listed assertion, at a later date, in accordance with the procedures of the Validation of Asserted Restrictions--Computer Software clause of this contract.

(f) Marking requirements. The Contractor, and its subcontractors or suppliers, may only assert restrictions on the Government's rights to use, modify, reproduce, release, perform, display, or disclose computer software by marking the deliverable software or documentation subject to restriction. Except as provided in paragraph (f)(5) of this clause, only the following legends are authorized under this contract; the government purpose rights legend at paragraph (f)(2) of this clause; the restricted rights legend at paragraph (f)(3) of this clause; or the special license rights legend at paragraph (f)(4) of this clause; and/or a notice of copyright as prescribed under 17 U.S.C. 401 or 402.

(1) General marking instructions. The Contractor, or its subcontractors or suppliers, shall conspicuously and legibly mark the appropriate legend on all computer software that qualify for such markings. The authorized legends shall be placed on the transmitted document or software storage container and each page, or portions thereof, of printed material containing computer software for which restrictions are asserted. Computer software transmitted directly from one computer or computer terminal to another shall contain a notice of asserted restrictions. However, instructions that interfere with or delay the operation of computer software in order to display a restrictive rights legend or other license statement at any time prior to or during use of the computer software, or otherwise cause such interference or delay, shall not be inserted in software that will or might be used in combat or situations that simulate combat conditions, unless the Contracting Officer's written permission to deliver such software has been obtained prior to delivery. Reproductions of computer software or any portions thereof subject to asserted restrictions, shall also reproduce the asserted restrictions.

(2) Government purpose rights markings. Computer software delivered or otherwise furnished to the Government with government purpose rights shall be marked as follows:

GOVERNMENT PURPOSE RIGHTS

Contract No.

Contractor Name

Contractor Address

Expiration Date

The Government's rights to use, modify, reproduce, release, perform, display, or disclose this software are restricted by paragraph (b)(2) of the Rights in Noncommercial Computer Software and Noncommercial Computer Software

Documentation clause contained in the above identified contract. No restrictions apply after the expiration date shown above. Any reproduction of the software or portions thereof marked with this legend must also reproduce the markings.

(End of legend)

(3) Restricted rights markings. Software delivered or otherwise furnished to the Government with restricted rights shall be marked with the following legend:

RESTRICTED RIGHTS

Contract No.

Contractor Name

Contractor Address

The Government's rights to use, modify, reproduce, release, perform, display, or disclose this software are restricted by paragraph (b)(3) of the Rights in Noncommercial Computer Software and Noncommercial Computer Software Documentation clause contained in the above identified contract. Any reproduction of computer software or portions thereof marked with this legend must also reproduce the markings. Any person, other than the Government, who has been provided access to such software must promptly notify the above named Contractor.

(End of legend)

(4) Special license rights markings. (i) Computer software or computer documentation in which the Government's rights stem from a specifically negotiated license shall be marked with the following legend:

SPECIAL LICENSE RIGHTS

The Government's rights to use, modify, reproduce, release, perform, display, or disclose this software are restricted by Contract No. (Insert contract number), License No. (Insert license identifier). Any reproduction of computer software, computer software documentation, or portions thereof marked with this legend must also reproduce the markings.

(End of legend)

(ii) For purposes of this clause, special licenses do not include government purpose license rights acquired under a prior contract (see paragraph (b)(5) of this clause).

(5) Pre-existing markings. If the terms of a prior contract or license permitted the Contractor to restrict the Government's rights to use, modify, release, perform, display, or disclose computer software or computer software documentation and those restrictions are still applicable, the Contractor may mark such software or documentation with the appropriate restrictive legend for which the software qualified under the prior contract or license. The marking procedures in paragraph (f)(1) of this clause shall be followed.

(g) Contractor procedures and records. Throughout performance of this contract, the Contractor and its subcontractors or suppliers that will deliver computer software or computer software documentation with other than unlimited rights, shall--

(1) Have, maintain, and follow written procedures sufficient to assure that restrictive markings are used only when authorized by the terms of this clause; and

(2) Maintain records sufficient to justify the validity of any restrictive markings on computer software or computer

software documentation delivered under this contract.

(h) Removal of unjustified and nonconforming markings. (1) Unjustified computer software or computer software documentation markings. The rights and obligations of the parties regarding the validation of restrictive markings on computer software or computer software documentation furnished or to be furnished under this contract are contained in the Validation of Asserted Restrictions--Computer Software and the Validation of Restrictive Markings on Technical Data clauses of this contract, respectively. Notwithstanding any provision of this contract concerning inspection and acceptance, the Government may ignore or, at the Contractor's expense, correct or strike a marking if, in accordance with the procedures of those clauses, a restrictive marking is determined to be unjustified.

(2) Nonconforming computer software or computer software documentation markings. A nonconforming marking is a marking placed on computer software or computer software documentation delivered or otherwise furnished to the Government under this contract that is not in the format authorized by this contract. Correction of nonconforming markings is not subject to the Validation of Asserted Restrictions--Computer Software or the Validation of Restrictive Markings on Technical Data clause of this contract. If the Contracting Officer notifies the Contractor of a nonconforming marking or markings and the Contractor fails to remove or correct such markings within sixty (60) days, the Government may ignore or, at the Contractor's expense, remove or correct any nonconforming markings.

(i) Relation to patents. Nothing contained in this clause shall imply a license to the Government under any patent or be construed as affecting the scope of any license or other right otherwise granted to the Government under any patent.

(j) Limitation on charges for rights in computer software or computer software documentation. (1) The Contractor shall not charge to this contract any cost, including but not limited to license fees, royalties, or similar charges, for rights in computer software or computer software documentation to be delivered under this contract when--

(i) The Government has acquired, by any means, the same or greater rights in the software or documentation; or

(ii) The software or documentation are available to the public without restrictions.

(2) The limitation in paragraph (j)(1) of this clause--

(i) Includes costs charged by a subcontractor or supplier, at any tier, or costs incurred by the Contractor to acquire rights in subcontractor or supplier computer software or computer software documentation, if the subcontractor or supplier has been paid for such rights under any other Government contract or under a license conveying the rights to the Government; and

(ii) Does not include the reasonable costs of reproducing, handling, or mailing the documents or other media in which the software or documentation will be delivered.

(k) Applicability to subcontractors or suppliers. (1) Whenever any noncommercial computer software or computer software documentation is to be obtained from a subcontractor or supplier for delivery to the Government under this contract, the Contractor shall use this same clause in its subcontracts or other contractual instruments, and require its subcontractors or suppliers to do so, without alteration, except to identify the parties. No other clause shall be used to enlarge or diminish the Government's, the Contractor's, or a higher tier subcontractor's or supplier's rights in a subcontractor's or supplier's computer software or computer software documentation.

(2) The Contractor and higher tier subcontractors or suppliers shall not use their power to award contracts as economic leverage to obtain rights in computer software or computer software documentation from their subcontractors or suppliers.

(3) The Contractor shall ensure that subcontractor or supplier rights are recognized and protected in the identification, assertion, and delivery processes required by paragraph (e) of this clause.

(4) In no event shall the Contractor use its obligation to recognize and protect subcontractor or supplier rights in computer software or computer software documentation as an excuse for failing to satisfy its contractual obligation to the Government.

(End of clause)

CLAUSES INCORPORATED BY FULL TEXT

252.227-7015 TECHNICAL DATA--COMMERCIAL ITEMS. (NOV 1995)

(a) Definitions. As used in this clause:

(1) "Commercial item" does not include commercial computer software.

(2) "Form, fit, and function data" means technical data that describes the required overall physical, functional, and performance characteristics (along with the qualification requirements, if applicable) of an item, component, or process to the extent necessary to permit identification of physically and functionally interchangeable items.

(3) The term "item" includes components or processes.

(4) "Technical data" means recorded information, regardless of the form or method of recording, of a scientific or technical nature (including computer software documentation). The term does not include computer software or data incidental to contract administration, such as financial and/or management information.

(b) License. (1) The Government shall have the unrestricted right to use, modify, reproduce, release, perform, display, or disclose technical data, and to permit others to do so, that--

(i) Have been provided to the Government or others without restrictions on use, modification, reproduction, release, or further disclosure other than a release or disclosure resulting from the sale, transfer, or other assignment of interest in the technical data to another party or the sale or transfer of some or all of a business entity or its assets to another party;

(ii) Are form, fit, and function data;

(iii) Are a correction or change to technical data furnished to the Contractor by the Government;

(iv) Are necessary for operation, maintenance, installation, or training (other than detailed manufacturing or process data); or

(v) Have been provided to the Government under a prior contract or licensing agreement through which the Government has acquired the rights to use, modify, reproduce, release, perform, display, or disclose the data without restrictions.

(2) Except as provided in paragraph (b)(1) of this clause, the Government may use, modify, reproduce, release, perform, display, or disclose technical data within the Government only. The Government shall not--

(i) Use the technical data to manufacture additional quantities of the commercial items; or

(ii) Release, perform, display, disclose, or authorize use of the technical data outside the Government without the Contractor's written permission unless a release, disclosure or permitted use is necessary for emergency repair or overhaul of the commercial items furnished under this contract.

(c) Additional license rights. The Contractor, its subcontractors, and suppliers are not required to provide the Government additional rights to use, modify, reproduce, release, perform, display, or disclose technical data. However, if the Government desires to obtain additional rights in technical data, the Contractor agrees to promptly enter into negotiations with the Contracting Officer to determine whether there are acceptable terms for transferring such rights. All technical data in which the Contractor has granted the Government additional rights shall be listed or described in a special license agreement made part of this contract. The license shall enumerate the additional rights granted the Government in such data.

(d) Release from liability. The Contractor agrees that the Government, and other persons to whom the Government may have released or disclosed technical data delivered or otherwise furnished under this contract, shall have no liability for any release or disclosure of technical data that are not marked to indicate that such data are licensed data subject to use, modification, reproduction, release, performance, display, or disclosure restrictions.

(End of clause)

252.227-7016 RIGHTS IN BID OR PROPOSAL INFORMATION (JUN 1995)

(a) Definitions.

(1) For contracts that require the delivery of technical data, the terms "technical data" and "computer software" are defined in the Rights in Technical Data--Noncommercial Item clause of this contract or, if this is a contract awarded under the Small Business Innovative Research Program, the Rights in Noncommercial Technical Data and Computer Software--Small Business Innovative Research (SBIR) Program clause of this contract.

(2) For contracts that do not require the delivery of technical data, the term "computer software" is defined in the Rights in Noncommercial Computer and Noncommercial Computer Software Documentation clause of this contract or, if this is a contract awarded under the Small Business Innovative Research Program, the Rights in Noncommercial Technical Data and Computer Software--Small Business Innovative Research (SBIR) Program clause of this contract.

(b) Government rights to contract award. By submission of its offer, the Offeror agrees that the Government--

(1) May reproduce the bid or proposal, or any portions thereof, to the extent necessary to evaluate the offer.

(2) Except as provided in paragraph (d) of this clause, shall use information contained in the bid or proposal only for evaluational purposes and shall not disclose, directly or indirectly, such information to any person including potential evaluators, unless that person has been authorized by the head of the agency, his or her designee, or the Contracting Officer to receive such information.

(c) Government rights subsequent to contract award--The Contractor agrees--

(1) Except as provided in paragraphs (c)(2), (d), and (e) of this clause, the Government shall have the rights to use, modify, reproduce, release, perform, display, or disclose information contained in the Contractor's bid or proposal within the Government. The Government shall not release, perform, display, or disclose such information outside the Government without the Contractor's written permission.

(2) The Government's right to use, modify, reproduce, release, perform, display, or disclose information that is technical data or computer software required to be delivered under this contract are determined by the Rights in Technical Data--Noncommercial Items, Rights in Noncommercial Computer Software and Noncommercial Computer Software Documentation, or Rights in Noncommercial Technical Data and Computer Software--Small Business Innovative Research (SBIR) Program clause(s) of this contract.

(d) Government-furnished information. The Government's rights with respect to technical data or computer software contained in the Contractor's bid or proposal that were provided to the Contractor by the Government are subject only to restrictions on use, modification, reproduction, release, performance, display, or disclosure, if any, imposed by the developer or licensor of such data or software.

(e) Information available without restrictions. The Government's rights to use, modify, reproduce, release, perform, display, or, disclose information contained in a bid or proposal, including technical data or computer software, and to permit others to do so, shall not be restricted in any manner if such information has been released or disclosed to the Government or to other persons without restrictions other than a release or disclosure resulting from the sale, transfer, or other assignment of interest in the information to another party or the sale or transfer of some or all of a business entity or its assets to another party.

(f) Flowdown. Contractor shall include this clause in all subcontracts or similar contractual instruments and require its subcontractors or suppliers to do so without alteration, except to identify the parties.

(End of clause)

252.227-7017 IDENTIFICATION AND ASSERTION OF USE, RELEASE, OR DISCLOSURE RESTRICTIONS. (JUN 1995)

(a) The terms used in this provision are defined in following clause or clauses contained in this solicitation--

(1) If a successful offeror will be required to deliver technical data, the Rights in Technical Data--Noncommercial Items clause, or, if this solicitation contemplates a contract under the Small Business Innovative Research Program, the Rights in Noncommercial Technical Data and Computer Software--Small Business Innovative Research (SBIR) Program clause.

(2) If a successful offeror will not be required to deliver technical data, the Rights in Noncommercial Computer Software and Noncommercial Computer Software Documentation clause, or, if this solicitation contemplates a contract under the Small Business Innovative Research Program, the Rights in Noncommercial Technical Data and Computer Software--Small Business Innovative Research (SBIR) Program clause.

(b) The identification and assertion requirements in this provision apply only to technical data, including computer software documents, or computer software to be delivered with other than unlimited rights. For contracts to be awarded under the Small Business Innovative Research Program, the notification requirements do not apply to technical data or computer software that will be generated under the resulting contract. Notification and identification is not required for restrictions based solely on copyright.

(c) Offers submitted in response to this solicitation shall identify, to the extent known at the time an offer is submitted to the Government, the technical data or computer software that the Offeror, its subcontractors or suppliers, or potential subcontractors or suppliers, assert should be furnished to the Government with restrictions on use, release, or disclosure.

(d) The Offeror's assertions, including the assertions of its subcontractors or suppliers or potential subcontractors or suppliers shall be submitted as an attachment to its offer in the following format, dated and signed by an official authorized to contractually obligate the Offeror:

Identification and Assertion of Restrictions on the Government's Use, Release, or Disclosure of Technical Data or Computer Software.

The Offeror asserts for itself, or the persons identified below, that the Government's rights to use, release, or disclose the following technical data or computer software should be restricted:

| Technical Data or Computer Software to be Furnished With Restrictions * | Basis for Assertion ** | Asserted Rights Category *** | Name of Person Asserting Restrictions **** |
|---|------------------------|------------------------------|--|
| (LIST) ***** | (LIST) | (LIST) | (LIST) |

*For technical data (other than computer software documentation) pertaining to items, components, or processes developed at private expense, identify both the deliverable technical data and each such items, component, or process. For computer software or computer software documentation identify the software or documentation.

**Generally, development at private expense, either exclusively or partially, is the only basis for asserting restrictions. For technical data, other than computer software documentation, development refers to development of the item, component, or process to which the data pertain. The Government's rights in computer software documentation generally may not be restricted. For computer software, development refers to the software. Indicate whether development was accomplished exclusively or partially at private expense. If development was not accomplished at private expense, or for computer software documentation, enter the specific basis for asserting restrictions.

***Enter asserted rights category (e.g., government purpose license rights from a prior contract, rights in SBIR data generated under another contract, limited, restricted, or government purpose rights under this or a prior contract, or specially negotiated licenses).

****Corporation, individual, or other person, as appropriate.

*****Enter "none" when all data or software will be submitted without restrictions.

Date _____

Printed Name and Title _____

Signature _____

(End of identification and assertion)

(e) An offeror's failure to submit, complete, or sign the notification and identification required by paragraph (d) of this provision with its offer may render the offer ineligible for award.

(f) If the Offeror is awarded a contract, the assertions identified in paragraph (d) of this provision shall be listed in an attachment to that contract. Upon request by the Contracting Officer, the Offeror shall provide sufficient information to enable the Contracting Officer to evaluate any listed assertion.

(End of provision)

252.227-7019 VALIDATION OF ASSERTED RESTRICTIONS--COMPUTER SOFTWARE (JUN 1995)

(a) Definitions.

(1) As used in this clause, unless otherwise specifically indicated, the term "Contractor" means the Contractor and its subcontractors or suppliers.

(2) Other terms used in this clause are defined in the Rights in Noncommercial Computer Software and Noncommercial Computer Software Documentation clause of this contract.

(b) Justification. The Contractor shall maintain records sufficient to justify the validity of any markings that assert restrictions on the Government's rights to use, modify, reproduce, perform, display, release, or disclose computer software delivered or required to be delivered under this contract and shall be prepared to furnish to the Contracting Officer a written justification for such restrictive markings in response to a request for information under paragraph (d) or a challenge under paragraph (f) of this clause.

(c) Direct contact with subcontractors or suppliers. The Contractor agrees that the Contracting Officer may transact matters under this clause directly with subcontractors or suppliers at any tier who assert restrictions on the Government's right to use, modify, reproduce, release, perform, display, or disclose computer software. Neither this clause, nor any action taken by the Government under this clause, creates or implies privity of contract between the Government and the Contractor's subcontractors or suppliers.

(d) Requests for information.

(1) The Contracting Officer may request the Contractor to provide sufficient information to enable the Contracting Officer to evaluate the Contractor's asserted restrictions. Such information shall be based upon the records required by this clause or other information reasonably available to the Contractor.

(2) Based upon the information provided, if the--

(i) Contractor agrees that an asserted restriction is not valid, the Contracting Officer may--

(A) Strike or correct the unjustified marking at the Contractor's expense; or

(B) Return the computer software to the Contractor for correction at the Contractor's expense. If the Contractor fails to correct or strike the unjustified restrictions and return the corrected software to the Contracting Officer within sixty (60) days following receipt of the software, the Contracting Officer may correct the strike the markings at the Contractor's expense.

(ii) Contracting Officer concludes that the asserted restriction is appropriate for this contract, the Contracting Officer shall so notify the Contractor in writing.

(3) The Contractor's failure to provide a timely response to a Contracting Officer's request for information or failure to provide sufficient information to enable the Contracting Officer to evaluate an asserted restriction shall constitute reasonable grounds for questioning the validity of an asserted restriction.

(e) Government right to challenge and validate asserted restrictions. (1) The Government, when there are reasonable grounds to do so, has the right to review and challenge the validity of any restrictions asserted by the Contractor on the Government's rights to use, modify, reproduce, release, perform, display, or disclose computer software delivered, to be delivered under this contract, or otherwise provided to the Government in the performance of this contract. Except for software that is publicly available, has been furnished to the Government without restrictions, or has been otherwise made available without restrictions, the Government may exercise this right only within three years after the date(s) the software is delivered or otherwise furnished to the Government, or three years following final payment under this contract, whichever is later.

(2) The absence of a challenge to an asserted restriction shall not constitute validation under this clause. Only a Contracting Officer's final decision or actions of an agency Board of Contract Appeals or a court of competent jurisdiction that sustain the validity of an asserted restriction constitute validation of the restriction.

(f) Challenge procedures. (1) A challenge must be in writing and shall--

(i) State the specific grounds for challenging the asserted restriction;

(ii) Require the Contractor to respond within sixty (60) days;

(iii) Require the Contractor to provide justification for the assertion based upon records kept in accordance with paragraph (b) of this clause and such other documentation that are reasonably available to the Contractor, in sufficient detail to enable the Contracting Officer to determine the validity of the asserted restrictions; and

(iv) State that a Contracting Officer's final decision, during the three-year period preceding this challenge, or action of a court of competent jurisdiction or Board of Contract Appeals that sustained the validity of an identical assertion made by the Contractor (or a licensee) shall serve as justification for the asserted restriction.

(2) The Contracting Officer shall extend the time for response if the Contractor submits a written request showing the need for additional time to prepare a response.

(3) The Contracting Officer may request additional supporting documentation if, in the Contracting Officer's opinion, the Contractor's explanation does not provide sufficient evidence to justify the validity of the asserted restrictions. The Contractor agrees to promptly respond to the Contracting Officer's request for additional supporting documentation.

(4) Notwithstanding challenge by the Contracting Officer, the parties may agree on the disposition of an asserted restriction at any time prior to a Contracting Officer's final decision or, if the Contractor has appealed that decision, filed suit, or provided notice of an intent to file suit, at any time prior to a decision by a court of competent jurisdiction or Board of Contract Appeals.

(5) If the Contractor fails to respond to the Contracting Officer's request for information or additional information under paragraph (f)(1) of this clause, the Contracting Officer shall issue a final decision, in accordance with the Disputes clause of this contract, pertaining to the validity of the asserted restriction.

(6) If the Contracting Officer, after reviewing the written explanation furnished pursuant to paragraph (f)(1) of this clause, or any other available information pertaining to the validity of an asserted restriction, determines that the asserted restriction has--

(i) Not been justified, the Contracting Officer shall issue promptly a final decision, in accordance with the Disputes clause of this contract, denying the validity of the asserted restriction; or

(ii) Been justified, the Contracting Officer shall issue promptly a final decision, in accordance with the Disputes clause of this contract, validating the asserted restriction.

(7) A Contractor receiving challenges to the same asserted restriction(s) from more than one Contracting Officer shall notify each Contracting Officer of the other challenges. The notice shall also state which Contracting Officer initiated the first in time unanswered challenge. The Contracting Officer who initiated the first in time unanswered challenge, after consultation with the other Contracting Officers who have challenged the restrictions and the Contractor, shall formulate and distribute a schedule that provides the contractor a reasonable opportunity for responding to each challenge.

(g) Contractor appeal--Government obligation. (1) The Government agrees that, notwithstanding a Contracting Officer's final decision denying the validity of an asserted restriction and except as provided in paragraph (g)(3) of this clause, it will honor the asserted restriction--

(i) For a period of ninety (90) days from the date of the Contracting Officer's final decision to allow the Contractor to appeal to the appropriate Board of Contract Appeals or to file suit in an appropriate court;

(ii) For a period of one year from the date of the Contracting Officer's final decision if, within the first ninety (90) days following the Contracting Officer's final decision, the Contractor has provided notice of an intent to file suit in an appropriate court; or

(iii) Until final disposition by the appropriate Board of Contract Appeals or court of competent jurisdiction, if the Contractor has: (A) appealed to the Board of Contract Appeals or filed suit in an appropriate court within ninety (90) days; or (B) submitted, within ninety (90) days, a notice of intent to file suit in an appropriate court and filed suit within one year.

(2) The Contractor agrees that the Government may strike, correct, or ignore the restrictive markings if the Contractor fails to--

(i) Appeal to a Board of Contract Appeals within ninety (90) days from the date of the Contracting Officer's final decision;

(ii) File suit in an appropriate court within ninety (90) days from such date; or

(iii) File suit within one year after the date of the Contracting Officer's final decision if the Contractor had provided notice of intent to file suit within ninety (90) days following the date of the Contracting Officer's final decision.

(3) The agency head, on a nondelegable basis, may determine that urgent or compelling circumstances do not permit awaiting the filing of suit in an appropriate court, or the rendering of a decision by a court of competent jurisdiction or Board of Contract Appeals. In that event, the agency head shall notify the Contractor of the urgent or compelling circumstances. Notwithstanding paragraph (g)(1) of this clause, the Contractor agrees that the agency may use, modify, reproduce, release, perform, display, or disclose computer software marked with (i) government purpose legends for any purpose, and authorize others to do so; or (ii) restricted or special license rights for government purposes only. The Government agrees not to release or disclose such software unless, prior to release or disclosure, the intended recipient is subject to the use and non-disclosure agreement at 227.7103-7 of the Defense Federal Acquisition Regulation Supplement (DFARS), or is a Government contractor receiving access to the software for performance of a Government contract that contains the clause at DFARS 252.227-7025, Limitations on the Use or Disclosure of Government-Furnished Information Marked with Restrictive Legends. The agency head's determination may be made at any time after the date of the Contracting Officer's final decision and shall not affect the Contractor's right to damages against the United States, or other relief provided by law, if its asserted restrictions are ultimately upheld.

(h) Final disposition of appeal or suit. If the Contractor appeals or files suit and if, upon final disposition of the appeal or suit, the Contracting Officer's decision is:

(1) Sustained--

(i) Any restrictive marking on such computer software shall be struck or corrected at the contractor's expense or ignored; and

(ii) If the asserted restriction is found not to be substantially justified, the Contractor shall be liable to the Government for payment of the cost to the Government of reviewing the asserted restriction and the fees and other expenses (as defined in 28 U.S.C. 2412(d)(2)(A)) incurred by the Government in challenging the restriction, unless special circumstances would make such payment unjust.

(2) Not sustained--

(i) The Government shall be bound by the asserted restriction; and

(ii) If the challenge by the Government is found not to have been made in good faith, the Government shall be liable to the Contractor for payment of fees and other expenses (as defined in 28 U.S.C. 2412(d)(2)(A)) incurred by the Contractor in defending the restriction.

(i) Flowdown. The Contractor shall insert this clause in all contracts, purchase orders, and other similar instruments with its subcontractors or suppliers, at any tier, who will be furnishing computer software to the Government in the performance of this contract. The clause may not be altered other than to identify the appropriate parties.

(End of clause)

252.227-7022 GOVERNMENT RIGHTS (UNLIMITED) (MAR 1979)

The Government shall have unlimited rights, in all drawings, designs, specifications, notes and other works developed in the performance of this contract, including the right to use same on any other Government design or construction without additional compensation to the Contractor. The Contractor hereby grants to the Government a paid-up license throughout the world to all such works to which he may assert or establish any claim under design patent or copyright laws. The Contractor for a period of three (3) years after completion of the project agrees to furnish the original or copies of all such works on the request of the Contracting Officer.

(End of clause)

252.227-7023 DRAWINGS AND OTHER DATA TO BECOME PROPERTY OF GOVERNMENT. (MAR 1979)

All designs, drawings, specifications, notes and other works developed in the performance of this contract shall become the sole property of the Government and may be used on any other design or construction without additional compensation to the Contractor. The Government shall be considered the "person for whom the work was prepared" for the purpose of authorship in any copyrightable work under 17 U.S.C. 201(b). With respect thereto, the Contractor agrees not to assert or authorize others to assert any rights nor establish any claim under the design patent or copyright laws. The Contractor for a period of three (3) years after completion of the project agrees to furnish all retained works on the request of the Contracting Officer. Unless otherwise provided in this contract, the Contractor shall have the right to retain copies of all works beyond such period.

(End of clause)

252.227-7024 NOTICE AND APPROVAL OF RESTRICTED DESIGNS (APR 1984)

In the performance of this contract, the Contractor shall, to the extent practicable, make maximum use of structures, machines, products, materials, construction methods, and equipment that are readily available through Government or competitive commercial channels, or through standard or proven production techniques, methods, and processes. Unless approved by the Contracting Officer, the Contractor shall not produce a design or specification that requires in this construction work the use of structures, products, materials, construction equipment, or processes that are known by the Contractor to be available only from a sole source. The Contractor shall promptly report any such design or specification to the Contracting Officer and give the reason why it is considered necessary to so restrict the design or specification.

(End of clause)

252.227-7025 LIMITATIONS ON THE USE OR DISCLOSURE OF GOVERNMENT-FURNISHED INFORMATION MARKED WITH RESTRICTIVE LEGENDS. (JUN 1995)

(a)(1) For contracts requiring the delivery of technical data, the terms "limited rights" and "Government purpose rights" are defined in the Rights in Technical Data--Noncommercial Items clause of this contract.

(2) For contracts that do not require the delivery of technical data, the terms "government purpose rights" and "restricted rights" are defined in the Rights in Noncommercial Computer Software and Noncommercial Computer Software Documentation clause of this contract.

(3) For Small Business Innovative Research program contracts, the terms "limited rights" and "restricted rights" are defined in the Rights in Noncommercial Technical Data and Computer Software--Small Business Innovative Research (SBIR) Program clause of this contract.

(b) Technical data or computer software provided to the Contractor as Government furnished information (GFI) under this contract may be subject to restrictions on use, modification, reproduction, release, performance, display, or further disclosure.

(1) GFI marked with limited or restricted rights legends. The Contractor shall use, modify, reproduce, perform, or display technical data received from the Government with limited rights legends or computer software received with restricted rights legends only in the performance of this contract. The Contractor shall not, without the express written permission of the party whose name appears in the legend, release or disclose such data or software to any person.

(2) GFI marked with government purpose rights legends. The Contractor shall use technical data or computer software received from the Government with government purpose rights legends for government purposes only. The Contractor shall not, without the express written permission of the party whose name appears in the restrictive legend, use, modify, reproduce, release, perform, or display such data or software for any commercial purpose or disclose such data or software to a person other than its subcontractors, suppliers, or prospective subcontractors or suppliers, who require the data or software to submit offers for, or perform, contracts under this contract. Prior to disclosing the data or software, the Contractor shall require the persons to whom disclosure will be made to complete and sign the non-disclosure agreement at 227.7103-7 of the Defense Federal Acquisition Regulation Supplement (DFARS).

(3) GFI marked with specially negotiated license rights legends. The Contractor shall use, modify, reproduce, release, perform, or display technical data or computer software received from the Government with specially negotiated license legends only as permitted in the license. Such data or software may not be released or disclosed to other persons unless permitted by the license and, prior to release or disclosure, the intended recipient has completed the non-disclosure agreement at DFARS 227.7103-7. The Contractor shall modify paragraph (1)(c) of the non-disclosure agreement to reflect the recipient's obligations regarding use, modification, reproduction, release, performance, display, and disclosure of the data or software.

(c) Indemnification and creation of third party beneficiary rights. The Contractor agrees--

(1) To indemnify and hold harmless the Government, its agents, and employees from every claim or liability, including attorneys fees, court costs, and expenses, arising out of, or in any way related to, the misuse or unauthorized modification, reproduction, release, performance, display, or disclosure of technical data or computer software received from the Government with restrictive legends by the Contractor or any person to whom the Contractor has released or disclosed such data or software; and

(2) That the party whose name appears on the restrictive legend, in addition to any other rights it may have, is a third party beneficiary who has the right of direct action against the Contractor, or any person to whom the Contractor has released or disclosed such data or software, for the unauthorized duplication, release, or disclosure of technical data or computer software subject to restrictive legends.

(End of clause)

252.227-7026 DEFERRED DELIVERY OF TECHNICAL DATA OR COMPUTER SOFTWARE
(APR 1988)

The Government shall have the right to require, at any time during the performance of this contract, within two (2) years after either acceptance of all items (other than data or computer software) to be delivered under this contract or termination of this contract, whichever is later, delivery of any technical data or computer software item identified in this contract as "deferred delivery" data or computer software. The obligation to furnish such technical data required to be prepared by a subcontractor and pertaining to an item obtained from him shall expire two (2) years after the date Contractor accepts the last delivery of that item from that subcontractor for use in performing this contract.

(End of clause)

252.227-7027 DEFERRED ORDERING OF TECHNICAL DATA OR COMPUTER SOFTWARE
(APR 1988)

In addition to technical data or computer software specified elsewhere in this contract to be delivered hereunder, the Government may, at any time during the performance of this contract or within a period of three (3) years after acceptance of all items (other than technical data or computer software) to be delivered under this contract or the termination of this contract, order any technical data or computer software generated in the performance of this contract or any subcontract hereunder. When the technical data or computer software is ordered, the Contractor shall be compensated for converting the data or computer software into the prescribed form, for reproduction and delivery. The obligation to deliver the technical data of a subcontractor and pertaining to an item obtained from him shall expire three (3) years after the date the Contractor accepts the last delivery of that item from that subcontractor under this contract. The Government's rights to use said data or computer software shall be pursuant to the "Rights in Technical Data and Computer Software" clause of this contract.

(End of clause)

252.227-7028 TECHNICAL DATA OR COMPUTER SOFTWARE PREVIOUSLY DELIVERED TO THE
GOVERNMENT (JUN 1995)

The Offeror shall attach to its offer an identification of all documents or other media incorporating technical data or computer software it intends to deliver under this contract with other than unlimited rights that are identical or substantially similar to documents or other media that the Offeror has produced for, delivered to, or is obligated to deliver to the Government under any contract or subcontract. The attachment shall identify--

(a) The contract number under which the data or software were produced;

(b) The contract number under which, and the name and address of the organization to whom, the data or software were most recently delivered or will be delivered; and

(c) Any limitations on the Government's rights to use or disclose the data or software, including, when applicable, identification of the earliest date the limitations expire.

(End of clause)

252.227-7030 TECHNICAL DATA--WITHHOLDING OF PAYMENT (MAR 2000)

(a) If technical data specified to be delivered under this contract, is not delivered within the time specified by this contract or is deficient upon delivery (including having restrictive markings not identified in the list described in the clause at 252.227-7013(e)(2) or 252.227-7018(e)(2) of this contract), the Contracting Officer may until such data is accepted by the Government, withhold payment to the Contractor of ten percent (10%) of the total contract price or amount unless a lesser withholding is specified in the contract. Payments shall not be withheld nor any other action taken pursuant to this paragraph when the Contractor's failure to make timely delivery or to deliver such data without deficiencies arises out of causes beyond the control and without the fault or negligence of the Contractor.

(b) The withholding of any amount or subsequent payment to the Contractor shall not be construed as a waiver of any rights accruing to the Government under this contract.

(End of clause)

252.227-7032 RIGHTS IN TECHNICAL DATA AND COMPUTER SOFTWARE (FOREIGN) (JUN 1975)

The United States Government may duplicate, use, and disclose in any manner for any purposes whatsoever, including delivery to other governments for the furtherance of mutual defense of the United States Government and other governments, all technical data including reports, drawings and blueprints, and all computer software, specified to be delivered by the Contractor to the United States Government under this contract.

(End of clause)

252.227-7033 RIGHTS IN SHOP DRAWINGS (APR 1966)

(a) Shop drawings for construction means drawings, submitted to the Government by the Construction Contractor, subcontractor or any lower-tier subcontractor pursuant to a construction contract, showing in detail (i) the proposed fabrication and assembly of structural elements and (ii) the installation (i.e., form, fit, and attachment details) of materials or equipment. The Government may duplicate, use, and disclose in any manner and for any purpose shop drawings delivered under this contract.

(b) This clause, including this paragraph (b), shall be included in all subcontracts hereunder at any tier.

252.227-7037 VALIDATION OF RESTRICTIVE MARKINGS ON TECHNICAL DATA. (SEP 199)

(a) Definitions. The terms used in this clause are defined in the Rights in Technical Data--Noncommercial Items clause of this contract.

(b) Contracts for commercial items--presumption of development at private expense. Under a contract for a commercial item, component, or process, the Department of Defense shall presume that a Contractor's asserted use or release restrictions are justified on the basis that the item, component, or process was developed exclusively at

private expense. The Department shall not challenge such assertions unless information the Department provides demonstrates that the item, component, or process was not developed exclusively at private expense.

(c) Justification. The Contractor or subcontractor at any tier is responsible for maintaining records sufficient to justify the validity of its markings that impose restrictions on the Government and others to use, duplicate, or disclose technical data delivered or required to be delivered under the contract or subcontract. Except under contracts for commercial items, the Contractor or subcontractor shall be prepared to furnish to the Contracting Officer a written justification for such restrictive markings in response to a challenge under paragraph (e) of this clause.

(d) Prechallenge request for information. (1) The Contracting Officer may request the Contractor or subcontractor to furnish a written explanation for any restriction asserted by the Contractor or subcontractor on the right of the United States or others to use technical data. If, upon review of the explanation submitted, the Contracting Officer remains unable to ascertain the basis of the restrictive marking, the Contracting Officer may further request the Contractor or subcontractor to furnish additional information in the records of, or otherwise in the possession of or reasonably available to, the Contractor or subcontractor to justify the validity of any restrictive marking on technical data delivered or to be delivered under the contract or subcontract (e.g., a statement of facts accompanied with supporting documentation). The Contractor or subcontractor shall submit such written data as requested by the Contracting Officer within the time required or such longer period as may be mutually agreed.

(2) If the Contracting Officer, after reviewing the written data furnished pursuant to paragraph (d)(1) of this clause, or any other available information pertaining to the validity of a restrictive marking, determines that reasonable grounds exist to question the current validity of the marking and that continued adherence to the marking would make impracticable the subsequent competitive acquisition of the item, component, or process to which the technical data relates, the Contracting Officer shall follow the procedures in paragraph (e) of this clause.

(3) If the Contractor or subcontractor fails to respond to the Contracting Officer's request for information under paragraph (d)(1) of this clause, and the Contracting Officer determines that continued adherence to the marking would make impracticable the subsequent competitive acquisition of the item, component, or process to which the technical data relates, the Contracting Officer may challenge the validity of the marking as described in paragraph (e) of this clause.

(e) Challenge.

(1) Notwithstanding any provision of this contract concerning inspection and acceptance, if the Contracting Officer determines that a challenge to the restrictive marking is warranted, the Contracting Officer shall send a written challenge notice to the Contractor or subcontractor asserting the restrictive markings. Such challenge shall--

(i) State the specific grounds for challenging the asserted restriction;

(ii) Require a response within sixty (60) days justifying and providing sufficient evidence as to the current validity of the asserted restriction;

(iii) State that a DoD Contracting Officer's final decision, issued pursuant to paragraph (g) of this clause, sustaining the validity of a restrictive marking identical to the asserted restriction, within the three-year period preceding the challenge, shall serve as justification for the asserted restriction if the validated restriction was asserted by the same Contractor or subcontractor (or any licensee of such Contractor or subcontractor) to which such notice is being provided; and

(iv) State that failure to respond to the challenge notice may result in issuance of a final decision pursuant to paragraph (f) of this clause.

(2) The Contracting Officer shall extend the time for response as appropriate if the Contractor or subcontractor submits a written request showing the need for additional time to prepare a response.

(3) The Contractor's or subcontractor's written response shall be considered a claim within the meaning of the Contract Disputes Act of 1978 (41 U.S.C. 601, et seq.), and shall be certified in the form prescribed at 33.207 of the Federal Acquisition Regulation, regardless of dollar amount.

(4) A Contractor or subcontractor receiving challenges to the same restrictive markings from more than one Contracting Officer shall notify each Contracting Officer of the existence of more than one challenge. The notice shall also state which Contracting Officer initiated the first in time unanswered challenge. The Contracting Officer initiating the first in time unanswered challenge after consultation with the Contractor or subcontractor and the other Contracting Officers, shall formulate and distribute a schedule for responding to each of the challenge notices to all interested parties. The schedule shall afford the Contractor or subcontractor an opportunity to respond to each challenge notice. All parties will be bound by this schedule.

(f) Final decision when Contractor or subcontractor fails to respond. Upon a failure of a Contractor or subcontractor to submit any response to the challenge notice, other than a failure to respond under a contract for commercial items, the Contracting Officer will issue a final decision to the Contractor or subcontractor in accordance with the Disputes clause of this contract pertaining to the validity of the asserted restriction. This final decision shall be issued as soon as possible after the expiration of the time period of paragraph (e)(1)(ii) or (e)(2) of this clause. Following issuance of the final decision, the Contracting Officer will comply with the procedures in paragraphs (g)(2) (ii) through (iv) of this clause.

(g) Final decision when Contractor or subcontractor responds.

(1) if the Contracting Officer determines that the Contractor or subcontractor has justified the validity of the restrictive marking, the Contracting Officer shall issue a final decision to the Contractor or subcontractor sustaining the validity of the restrictive marking, and stating that the Government will continue to be bound by the restrictive marking. This final decision shall be issued within sixty (60) days after receipt of the Contractor's or subcontractor's response to the challenge notice, or within such longer period that the Contracting Officer has notified the Contractor or subcontractor that the Government will require. The notification of a longer period for issuance of a final decision will be made within sixty (60) days after receipt of the response to the challenge notice.

(2)(i) If the Contracting Officer determines that the validity of the restrictive marking is not justified, the Contracting Officer shall issue a final decision to the Contractor or subcontractor in accordance with the Disputes clause of this contract. Notwithstanding paragraph (e) of the Disputes clause, the final decision shall be issued within sixty (60) days after receipt of the Contractor's or subcontractor's response to the challenge notice, or within such longer period that the Contracting Officer has notified the Contractor or subcontractor of the longer period that the Government will require. The notification of a longer period for issuance of a final decision will be made within sixty (60) days after receipt of the response to the challenge notice.

(ii) The Government agrees that it will continue to be bound by the restrictive marking of a period of ninety (90) days from the issuance of the Contracting Officer's final decision under paragraph (g)(2)(i) of this clause. The Contractor or subcontractor agrees that, if it intends to file suit in the United States Claims Court it will provide a notice of intent to file suit to the Contracting Officer within ninety (90) days from the issuance of the Contracting Officer's final decision under paragraph (g)(2)(i) of this clause. If the Contractor or subcontractor fails to appeal, file suit, or provide a notice of intent to file suit to the Contracting Officer within the ninety (90)-day period, the Government may cancel or ignore the restrictive markings, and the failure of the Contractor or subcontractor to take the required action constitutes agreement with such Government action.

(iii) The Government agrees that it will continue to be bound by the restrictive marking where a notice of intent to file suit in the United States Claims Court is provided to the Contracting Officer within ninety (90) days from the issuance of the final decision under paragraph (g)(2)(i) of this clause. The Government will no longer be bound, and the Contractor or subcontractor agrees that the Government may strike or ignore the restrictive markings, if the Contractor or subcontractor fails to file its suit within one (1) year after issuance of the final decision. Notwithstanding the foregoing, where the head of an agency determines, on a nondelegable basis, that urgent or

compelling circumstances will not permit waiting for the filing of a suit in the United States Claims Court, the Contractor or subcontractor agrees that the agency may, following notice to the Contractor or subcontractor, authorize release or disclosure of the technical data. Such agency determination may be made at any time after issuance of the final decision and will not affect the Contractor's or subcontractor's right to damages against the United States where its restrictive markings are ultimately upheld or to pursue other relief, if any, as may be provided by law.

(iv) The Government agrees that it will be bound by the restrictive marking where an appeal or suit is filed pursuant to the Contract Disputes Act until final disposition by an agency Board of Contract Appeals or the United States Claims Court. Notwithstanding the foregoing, where the head of an agency determines, on a nondelegable basis, following notice to the Contractor that urgent or compelling circumstances will not permit awaiting the decision by such Board of Contract Appeals or the United States Claims Court, the Contractor or subcontractor agrees that the agency may authorize release or disclosure of the technical data. Such agency determination may be made at any time after issuance of the final decision and will not affect the Contractor's or subcontractor's right to damages against the United States where its restrictive markings are ultimately upheld or to pursue other relief, if any, as may be provided by law.

(h) Final disposition of appeal or suit. (1) If the Contractor or subcontractor appeals or files suit and if, upon final disposition of the appeal or suit, the Contracting Officer's decision is sustained--

(i) The restrictive marking on the technical data shall be cancelled, corrected or ignored; and

(ii) If the restrictive marking is found not to be substantially justified, the Contractor or subcontractor, as appropriate, shall be liable to the Government for payment of the cost to the Government of reviewing the restrictive marking and the fees and other expenses (as defined in 28 U.S.C. 2412(d)(2)(A)) incurred by the Government in challenging the marking, unless special circumstances would make such payment unjust.

(2) If the Contractor or subcontractor appeals or files suit and if, upon final disposition of the appeal or suit, the Contracting Officer's decision is not sustained--

(i) The Government shall continue to be bound by the restrictive marking; and

(ii) The Government shall be liable to the Contractor or subcontractor for payment of fees and other expenses (as defined in 28 U.S.C. 2412(d)(2)(A)) incurred by the Contractor or subcontractor in defending the marking, if the challenge by the Government is found not to have been made in good faith.

(i) Duration of right to challenge. The Government may review the validity of any restriction on technical data, delivered or to be delivered under a contract, asserted by the Contractor or subcontractor. During the period within three (3) years of final payment on a contract or within three (3) years of delivery of the technical data to the Government, whichever is later, the Contracting Officer may review and make a written determination to challenge the restriction. The Government may, however, challenge a restriction on the release, disclosure or use of technical data at any time if such technical data--

(1) Is publicly available;

(2) Has been furnished to the United States without restriction; or

(3) Has been otherwise made available without restriction. Only the Contracting Officer's final decision resolving a formal challenge by sustaining the validity of a restrictive marking constitutes "validation" as addressed in 10 U.S.C. 2321.

(j) Decision not to challenge. A decision by the Government, or a determination by the Contracting Officer, to not challenge the restrictive marking or asserted restriction shall not constitute "validation."

(k) Privity of contract. The Contractor or subcontractor agrees that the Contracting Officer may transact matters under this clause directly with subcontractors at any tier that assert restrictive markings. However, this clause neither creates nor implies privity of contract between the Government and subcontractors.

(l) Flowdown. The Contractor or subcontractor agrees to insert this clause in contractual instruments with its subcontractors or suppliers at any tier requiring the delivery of technical data, except contractual instruments for commercial items or commercial components.

(End of clause)

252.228-7003 CAPTURE AND DETENTION (DEC 1991)

(a) As used in this clause --

(1) Captured person means any employee of the Contractor who is --

(i) Assigned to duty outside the United States for the performance of this contract; and

(ii) Found to be missing from his or her place of employment under circumstances that make it appear probable that the absence is due to the action of the force of any power not allied with the United States in a common military effort; or

(iii) Known to have been taken prisoner, hostage, or otherwise detained by the force of such power, whether or not actually engaged in employment at the time of capture; provided, that at the time of capture or detention, the person was either --

(A) Engaged in activity directly arising out of and in the course of employment under this contract; or

(B) Captured in an area where required to be only in order to perform this contract.

(2) A period of detention begins with the day of capture and continues until the captured person is returned to the place of employment, the United States, or is able to be returned to the jurisdiction of the United States, or until the person's death is established or legally presumed to have occurred by evidence satisfactory to the Contracting Officer, whichever occurs first.

(3) United States comprises geographically the 50 states and the District of Columbia.

(4) War Hazards Compensation Act refers to the statute compiled in chapter 12 of title 42, U.S. Code (sections 1701-1717), as amended.

(b) If pursuant to an agreement entered into prior to capture, the Contractor is obligated to pay and has paid detention benefits to a captured person, or the person's dependents, the Government will reimburse the Contractor up to an amount equal to the lesser of --

(1) Total wage or salary being paid at the time of capture due from the Contractor to the captured person for the period of detention; or

(2) That amount which would have been payable if the detention had occurred under circumstances covered by the War Hazards Compensation Act.

(c) The period of detention shall not be considered as time spent in contract performance, and the Government shall not be obligated to make payment for that time except as provided in this clause.

(d) The obligation of the Government shall apply to the entire period of detention, except that it is subject to the availability of funds from which payment can be made. The rights and obligations of the parties under this clause shall survive prior expiration, completion, or termination of this contract.

(e) The Contractor shall not be reimbursed under this clause for payments made if the employees were entitled to compensation for capture and detention under the War Hazards Compensation Act, as amended.

252.229-7000 INVOICES EXCLUSIVE OF TAXES OR DUTIES (JUNE 1997)

Invoices submitted in accordance with the terms and conditions of this contract shall be exclusive of all taxes or duties for which relief is available.

(End of clause)

252.231-7000 SUPPLEMENTAL COST PRINCIPLES (DEC 1991)

When the allowability of costs under this contract is determined in accordance with part 31 of the Federal Acquisition Regulation (FAR), allowability shall also be determined in accordance with part 231 of the Defense FAR Supplement, in effect on the date of this contract.

(End of clause)

252.232-7003 ELECTRONIC SUBMISSION OF PAYMENT REQUESTS AND RECEIVING REPORTS (MAR 2008)

(a) Definitions. As used in this clause--

(1) Contract financing payment and invoice payment have the meanings given in section 32.001 of the Federal Acquisition Regulation.

(2) Electronic form means any automated system that transmits information electronically from the initiating system to all affected systems. Facsimile, e-mail, and scanned documents are not acceptable electronic forms for submission of payment requests. However, scanned documents are acceptable when they are part of a submission of a payment request made using Wide Area WorkFlow (WAWF) or another electronic form authorized by the Contracting Officer.

(3) Payment request means any request for contract financing payment or invoice payment submitted by the Contractor under this contract.

(b) Except as provided in paragraph (c) of this clause, the Contractor shall submit payment requests and receiving reports using WAWF, in one of the following electronic formats that WAWF accepts: Electronic Data Interchange, Secure File Transfer Protocol, or World Wide Web input. Information regarding WAWF is available on the Internet at <https://wawf.eb.mil/>.

(c) The Contractor may submit a payment request and receiving report using other than WAWF only when--

- (1) The Contracting Officer authorizes use of another electronic form. With such an authorization, the Contractor and the Contracting Officer shall agree to a plan, which shall include a timeline, specifying when the Contractor will transfer to WAWF;
 - (2) DoD is unable to receive a payment request or provide acceptance in electronic form;
 - (3) The Contracting Officer administering the contract for payment has determined, in writing, that electronic submission would be unduly burdensome to the Contractor. In such cases, the Contractor shall include a copy of the Contracting Officer's determination with each request for payment; or
 - (4) DoD makes payment for commercial transportation services provided under a Government rate tender or a contract for transportation services using a DoD-approved electronic third party payment system or other exempted vendor payment/invoicing system (e.g., PowerTrack, Transportation Financial Management System, and Cargo and Billing System).
 - (d) The Contractor shall submit any non-electronic payment requests using the method or methods specified in Section G of the contract.
 - (e) In addition to the requirements of this clause, the Contractor shall meet the requirements of the appropriate payment clauses in this contract when submitting payments requests.
- (End of clause)

252.232-7008 ASSIGNMENT OF CLAIMS (OVERSEAS) (JUNE 1997)

- (a) No claims for monies due, or to become due, shall be assigned by the Contractor unless—
 - (1) Approved in writing by the Contracting Officer;
 - (2) Made in accordance with the laws and regulations of the United States of America; and
 - (3) Permitted by the laws and regulations of the Contractor's country.
- (b) In no event shall copies of this contract of any plans, specifications, or other similar documents relating to work under this contract, if marked "Top Secret," "Secret," or "Confidential" be furnished to any assignee of any claim arising under this contract or to any other person not entitled to receive such documents. However, a copy of any part or all of this contract so marked may be furnished, or any information contained herein may be disclosed, to such assignee upon the Contracting Officer's prior written authorization.
- (c) Any assignment under this contract shall cover all amounts payable under this contract and not already paid, and shall not be made to more than one party, except that any such assignment may be made to one party as agent or trustee for two or more parties participating in such financing. On each invoice or voucher submitted for payment under this contract to which any assignment applies, and for which direct payment thereof is to be made to an assignee, the Contractor shall—
 - (1) Identify the assignee by name and complete address; and
 - (2) Acknowledge the validity of the assignment and the right of the named assignee to receive payment in the amount invoiced or vouchered.

(End of clause)

252.232-7010 LEVIES ON CONTRACT PAYMENTS (DEC 2006)

(a) 26 U.S.C. 6331(h) authorizes the Internal Revenue Service (IRS) to continuously levy up to 100 percent of contract payments, up to the amount of tax debt.

(b) When a levy is imposed on a payment under this contract and the Contractor believes that the levy may result in an inability to perform the contract, the Contractor shall promptly notify the Procuring Contracting Officer in writing, with a copy to the Administrative Contracting Officer, and shall provide--

(1) The total dollar amount of the levy;

(2) A statement that the Contractor believes that the levy may result in an inability to perform the contract, including rationale and adequate supporting documentation; and

(3) Advice as to whether the inability to perform may adversely affect national security, including rationale and adequate supporting documentation.

(c) DoD shall promptly review the Contractor's assessment, and the Procuring Contracting Officer shall provide a written notification to the Contractor including--

(1) A statement as to whether DoD agrees that the levy may result in an inability to perform the contract; and

(2)(i) If the levy may result in an inability to perform the contract and the lack of performance will adversely affect national security, the total amount of the monies collected that should be returned to the Contractor; or

(ii) If the levy may result in an inability to perform the contract but will not impact national security, a recommendation that the Contractor promptly notify the IRS to attempt to resolve the tax situation.

(d) Any DoD determination under this clause is not subject to appeal under the Contract Disputes Act.

(End of clause)

252.233-7001 CHOICE OF LAW (OVERSEAS) (JUNE 1997)

This contract shall be construed and interpreted in accordance with the substantive laws of the United States of America. By the execution of this contract, the Contractor expressly agrees to waive any rights to invoke the jurisdiction of local national courts where this contract is performed and agrees to accept the exclusive jurisdiction of the United States Armed Services Board of Contract Appeals and the United States Court of Federal Claims for hearing and determination of any and all disputes that may arise under the Disputes clause of this contract.

(End of clause)

252.236-7000 MODIFICATION PROPOSALS - PRICE BREAKDOWN. (DEC 1991)

(a) The Contractor shall furnish a price breakdown, itemized as required and within the time specified by the Contracting Officer, with any proposal for a contract modification.

(b) The price breakdown --

(1) Must include sufficient detail to permit an analysis of profit, and of all costs for --

(i) Material;

(ii) Labor;

(iii) Equipment;

(iv) Subcontracts; and

(v) Overhead; and

(2) Must cover all work involved in the modification, whether the work was deleted, added, or changed.

(c) The Contractor shall provide similar price breakdowns to support any amounts claimed for subcontracts.

(d) The Contractor's proposal shall include a justification for any time extension proposed.

252.236-7001 CONTRACT DRAWINGS AND SPECIFICATIONS (AUG 2000)

(a) The Government will provide to the Contractor, without charge, one set of contract drawings and specifications, except publications incorporated into the technical provisions by reference, in electronic or paper media as chosen by the Contracting Officer.

(b) The Contractor shall--

(1) Check all drawings furnished immediately upon receipt;

(2) Compare all drawings and verify the figures before laying out the work;

(3) Promptly notify the Contracting Officer of any discrepancies;

(4) Be responsible for any errors that might have been avoided by complying with this paragraph (b); and

(5) Reproduce and print contract drawings and specifications as needed.

(c) In general--

(1) Large-scale drawings shall govern small-scale drawings; and

(2) The Contractor shall follow figures marked on drawings in preference to scale measurements.

(d) Omissions from the drawings or specifications or the misdescription of details of work that are manifestly necessary to carry out the intent of the drawings and specifications, or that are customarily performed, shall not relieve the Contractor from performing such omitted or misdescribed details of the work. The Contractor shall perform such details as if fully and correctly set forth and described in the drawings and specifications.

(e) The work shall conform to the specifications and the contract drawings identified on the following index of drawings:

| Title | File | Drawing No. |
|-------|------|-------------|
|-------|------|-------------|

TO BE SPECIFIED IN EACH TASK ORDER

(End of clause)

252.236-7004 PAYMENT FOR MOBILIZATION AND DEMOBILIZATION (DEC 1991)

(a) The Government will pay all costs for the mobilization and demobilization of all of the Contractor's plant and equipment at the contract lump sum price for this item.

(1) **Sixty (60)** percent of the lump sum price upon completion of the contractor's mobilization at the work site.

(2) The remaining **forty (40)** percent upon completion of demobilization.

(b) The Contracting Officer may require the Contractor to furnish cost data to justify this portion of the bid if the Contracting Officer believes that the percentages in paragraphs (a) (1) and (2) of this clause do not bear a reasonable relation to the cost of the work in this contract.

(1) Failure to justify such price to the satisfaction of the Contracting Officer will result in payment, as determined by the Contracting Officer, of --

(i) Actual mobilization costs at completion of mobilization;

(ii) Actual demobilization costs at completion of demobilization; and

(iii) The remainder of this item in the final payment under this contract.

(2) The Contracting Officer's determination of the actual costs in paragraph (b)(1) of this clause is not subject to appeal.

252.236-7005 AIRFIELD SAFETY PRECAUTIONS. (DEC 1991)

(a) Definitions. As used in this clause --

(1) "Landing areas means" --

(i) The primary surfaces, comprising the surface of the runway, runway shoulders, and lateral safety zones. The length of each primary surface is the same as the runway length. The width of each primary surface is 2,000 feet (1,000 feet on each side of the runway centerline);

(ii) The "clear zone" beyond the ends of each runway, i.e., the extension of the primary surface for a distance of 1,000 feet beyond each end of each runway;

(iii) All taxiways, plus the lateral clearance zones along each side for the length of the taxiways (the outer edge of each lateral clearance zone is laterally 250 feet from the far or opposite edge of the taxiway, e.g., a 75-foot-wide taxiway would have a combined width of taxiway and lateral clearance zones of 425 feet); and

(iv) All aircraft parking aprons, plus the area 125 feet in width extending beyond each edge all around the aprons.

(2) "Safety precaution" areas means those portions of approach-departure clearance zones and transitional zones where placement of objects incident to contract performance might result in vertical projections at or above the approach-departure clearance, or the transitional surface.

(i) "The approach-departure clearance surface" is an extension of the primary surface and the clear zone at each end of each runway, for a distance of 50,000 feet, first along an inclined (glide angle) and then along a horizontal plane, both flaring symmetrically about the runway centerline extended.

(A) The inclined plane (glide angle) begins in the clear zone 200 feet past the end of the runway (and primary surface) at the same elevation as the end of the runway. It continues upward at a slope of 50:1 (1 foot vertically for each 50 feet horizontally) to an elevation of 500 feet above the established airfield elevation. At that point the plane becomes horizontal, continuing at that same uniform elevation to a point 50,000 feet longitudinally from the beginning of the inclined plane (glide angle) and ending there.

(B) The width of the surface at the beginning of the inclined plane (glide angle) is the same as the width of the clear zone. It then flares uniformly, reaching the maximum width of 16,000 feet at the end.

(ii) The "approach-departure clearance zone" is the ground area under the approach-departure clearance surface.

(iii) The "transitional surface" is a sideways extension of all primary surfaces, clear zones, and approach-departure clearance surfaces along inclined planes.

(A) The inclined plane in each case begins at the edge of the surface.

(B) The slope of the incline plane is 7:1 (1 foot vertically for each 7 feet horizontally). It continues to the point of intersection with the --

(1) Inner horizontal surface (which is the horizontal plane 150 feet above the established airfield elevation); or

(2) Outer horizontal surface (which is the horizontal plane 500 feet above the established airfield elevation), whichever is applicable.

(iv) The "transitional zone" is the ground area under the transitional surface. (It adjoins the primary surface, clear zone, and approach-departure clearance zone.)

(b) General. (1) The Contractor shall comply with the requirements of this clause while --

(i) Operating all ground equipment (mobile or stationary);

(ii) Placing all materials; and

(iii) Performing all work, upon and around all airfields.

(2) The requirements of this clause are in addition to any other safety requirements of this contract.

(c) The Contractor shall -

(1) Report to the Contracting Officer before initiating any work;

(2) Notify the Contracting Officer of proposed changes to locations and operations;

(3) Not permit either its equipment or personnel to use any runway for purposes other than aircraft operation without permission of the Contracting Officer, unless the runway is -

(i) Closed by order of the Contracting Officer; and

(ii) Marked as provided in paragraph (d)(2) of this clause;

(4) Keep all paved surfaces, such as runways, taxiways, and hardstands, clean at all times and, specifically, free from small stones which might damage aircraft propellers or jet aircraft;

(5) Operate mobile equipment according to the safety provisions of this clause, while actually performing work on the airfield. At all other times, the Contractor shall remove all mobile equipment to locations -

(i) Approved by the Contracting Officer;

(ii) At a distance of at least 750 feet from the runway centerline, plus any additional distance; and

(iii) Necessary to ensure compliance with the other provisions of this clause; and

(6) Not open a trench unless material is on hand and ready for placing in the trench. As soon as practicable after material has been placed and work approved, the Contractor shall backfill and compact trenches as required by the contract. Meanwhile, all hazardous conditions shall be marked and lighted in accordance with the other provisions of this clause.

(d) Landing areas. The Contractor shall -

(1) Place nothing upon the landing areas without the authorization of the Contracting Officer;

(2) Outline those landing areas hazardous to aircraft, using (unless otherwise authorized by the Contracting Officer) red flags by day, and electric, battery-operated low-intensity red flasher lights by night;

(3) Obtain, at an airfield where flying is controlled, additional permission from the control tower operator every time before entering any landing area, unless the landing area is marked as hazardous in accordance with paragraph (d)(2) of this clause;

(4) Identify all vehicles it operates in landing areas by means of a flag on a staff attached to, and flying above, the vehicle. The flag shall be three feet square, and consist of a checkered pattern of international orange and white squares of 1 foot on each side (except that the flag may vary up to ten percent from each of these dimensions);

(5) Mark all other equipment and materials in the landing areas, using the same marking devices as in paragraph (d)(2) of this clause; and

(6) Perform work so as to leave that portion of the landing area which is available to aircraft free from hazards, holes, piles of material, and projecting shoulders that might damage an airplane tire.

(e) Safety precaution areas. The Contractor shall -

(1) Place nothing upon the safety precaution areas without authorization of the Contracting Officer;

(2) Mark all equipment and materials in safety precaution areas, using (unless otherwise authorized by the Contracting Officer) red flags by day, and electric, battery-operated, low-intensity red flasher lights by night; and

(3) Provide all objects placed in safety precaution areas with a red light or red lantern at night, if the objects project above the approach-departure clearance surface or above the transitional surface.

252.236-7008 CONTRACT PRICES - BIDDING SCHEDULES. (DEC 1991)

(a) The Government's payment for the items listed in the Bidding Schedule shall constitute full compensation to the Contractor for --

(1) Furnishing all plant, labor, equipment, appliances, and materials; and

(2) Performing all operations required to complete the work in conformity with the drawings and specifications.

(b) The Contractor shall include in the prices for the items listed in the Bidding Schedule all costs for work in the specifications, whether or not specifically listed in the Bidding Schedule.

252.243-7001 PRICING OF CONTRACT MODIFICATIONS (DEC 1991)

When costs are a factor in any price adjustment under this contract, the contract cost principles and procedures in FAR part 31 and DFARS part 231, in effect on the date of this contract, apply.

252.243-7002 REQUESTS FOR EQUITABLE ADJUSTMENT (MAR 1998)

(a) The amount of any request for equitable adjustment to contract terms shall accurately reflect the contract adjustment for which the Contractor believes the Government is liable. The request shall include only costs for performing the change, and shall not include any costs that already have been reimbursed or that have been separately claimed. All indirect costs included in the request shall be properly allocable to the change in accordance with applicable acquisition regulations.

(b) In accordance with 10 U.S.C. 2410(a), any request for equitable adjustment to contract terms that exceeds the simplified acquisition threshold shall bear, at the time of submission, the following certificate executed by an individual authorized to certify the request on behalf of the Contractor:

I certify that the request is made in good faith, and that the supporting data are accurate and complete to the best of my knowledge and belief.

(Official's Name)

(Title)

(c) The certification in paragraph (b) of this clause requires full disclosure of all relevant facts, including--

(1) Cost or pricing data if required in accordance with subsection 15.403-4 of the Federal Acquisition Regulation (FAR); and

(2) Information other than cost or pricing data, in accordance with subsection 15.403-3 of the FAR, including actual cost data and data to support any estimated costs, even if cost or pricing data are not required.

(d) The certification requirement in paragraph (b) of this clause does not apply to----

(1) Requests for routine contract payments; for example, requests for payment for accepted supplies and services, routine vouchers under a cost-reimbursement type contract, or progress payment invoices; or

(2) Final adjustment under an incentive provision of the contract.

252.246-9999 SAFETY OF FACILITIES, INFRASTRUCTURE, AND EQUIPMENT FOR MILITARY OPERATIONS (DEVIATION) (APR 2010)

(a) Definition. "Discipline Work Group," as used in this clause, means representatives from the DoD Components, as defined in MIL-STD-3007F, who are responsible for the unification and maintenance of the Unified Facilities Criteria (UFC) documents for particular discipline areas.

(b) The Contractor shall ensure, consistent with the requirements of the applicable inspection clause in this contract, that the facilities, infrastructure, and equipment acquired, constructed, installed, repaired, maintained, or operated under this contract comply with United Facilities Criteria (UFC) 1-200-01 for –

(1) Fire protection;

(2) Structural integrity,

(3) Electrical system;

(4) Plumbing;

(5) Water treatment;

(6) Waste disposal, and

(7) Telecommunications networks.

(c) The Contractor may apply a standard equivalent to or more stringent than UFC 1-200-01 upon a written determination of the acceptability of the standard by the Contracting Officer with the concurrent of the relevant Discipline Working Group.

(End of clause)

252.247-7001 PRICE ADJUSTMENT (JAN 1997)

(a)The Contractor warrants that the prices set forth in this contract--

(1)Are based upon the wage rates, allowances, and conditions set forth in the collective bargaining agreements between the Contractor and its employees, in effect as of (insert date), and which are generally applicable to the ports where work under this contract is performed;

(2) Apply to operations by the Contractor on non-Government work as well as under this contract; and

(3) Do not include any allowance for cost increases that may--

(i) Become effective under the terms of the collective bargaining agreements after the date in paragraph (a)(1) of this clause; or

(ii) Result from modification of the collective bargaining agreements after the date in paragraph (a)(1).

(b) The Contractor shall notify the Contracting Officer within 60 days of receipt of notice of any changes (increase or decrease) in the wage rates, allowances, fringe benefits, and conditions that apply to its direct labor employees, if the changes--

(1) Are pursuant to the provisions of the collective bargaining agreements; or

(2) Are a result of effective modifications to the agreements; and

(3) Would change the Contractor's costs to perform this contract.

(c) The Contractor shall include in its notification--

(1) A proposal for an adjustment in the contract commodity, activity, or work-hour prices; and

(2) Data, in such form as the Contracting Officer may require, explaining the--

(i) Causes;

(ii) Effective date; and

(iii) Amount of the increase or decrease in the Contractor's proposal for the adjustment.

(d) Promptly upon receipt of any notice and data described in paragraph (c), the Contractor and the Contracting Officer shall negotiate an adjustment in the existing contract commodity, activity, or man-hour prices. However, no upward adjustment of the existing commodity, activity, or work-hour prices will be allowed in excess of _____ percent per year, except as provided in the Changes clause of this contract.

(1) Changes in the contract prices shall reflect, in addition to the direct and variable indirect labor costs, the associated changes in the costs for social security, unemployment compensation, taxes, and workman's compensation insurance.

(2) There will be no adjustment to increase the dollar amount allowances of the Contractor's profit.

(3) The agreed upon adjustment, its effective date, and the revised commodity, activity, or work-hour prices for services set forth in the schedule of rates, shall be incorporated in the contract by supplemental agreement.

(e) There will be no adjustment for any changes in the quantities of labor that the Contractor contemplated for each specific commodity, except as may result from modifications of the collective bargaining agreements. For the purpose of administering this clause, the Contractor shall submit to the Contracting Officer, within five days after award, the accounting data and computations the Contractor used to determine its estimated efficiency rate in the performance of this contract, to include the Contractor's computation of the costs apportioned for each rate set forth in the schedule of rates.

(f) Failure of the parties to agree to an adjustment under this clause will be deemed to be a dispute concerning a question of fact within the meaning of the Disputes clause of this contract. The Contractor shall continue

performance pending agreement on, or determination of, any such adjustment and its effective date.

(g) The Contractor shall include with the final invoice submitted under this contract a statement that the Contractor has not experienced a decrease in rates of pay for labor, or that the Contractor has given notice of all such decreases in compliance with paragraph (b) of this clause.

252.247-7023 Transportation of Supplies by Sea (MAY 2002)

(a) Definitions. As used in this clause --

(1) "Components" means articles, materials, and supplies incorporated directly into end products at any level of manufacture, fabrication, or assembly by the Contractor or any subcontractor.

(2) "Department of Defense" (DoD) means the Army, Navy, Air Force, Marine Corps, and defense agencies.

(3) "Foreign flag vessel" means any vessel that is not a U.S.-flag vessel.

(4) "Ocean transportation" means any transportation aboard a ship, vessel, boat, barge, or ferry through international waters.

(5) "Subcontractor" means a supplier, materialman, distributor, or vendor at any level below the prime contractor whose contractual obligation to perform results from, or is conditioned upon, award of the prime contract and who is performing any part of the work or other requirement of the prime contract.

(6) "Supplies" means all property, except land and interests in land, that is clearly identifiable for eventual use by or owned by the DoD at the time of transportation by sea.

(i) An item is clearly identifiable for eventual use by the DoD if, for example, the contract documentation contains a reference to a DoD contract number or a military destination.

(ii) "Supplies" includes (but is not limited to) public works; buildings and facilities; ships; floating equipment and vessels of every character, type, and description, with parts, subassemblies, accessories, and equipment; machine tools; material; equipment; stores of all kinds; end items; construction materials; and components of the foregoing.

(7) "U.S.-flag vessel" means a vessel of the United States or belonging to the United States, including any vessel registered or having national status under the laws of the United States.

(b)(1) The Contractor shall use U.S.-flag vessels when transporting any supplies by sea under this contract.

(2) A subcontractor transporting supplies by sea under this contract shall use U.S.-flag vessels if--

(i) This contract is a construction contract; or

(ii) The supplies being transported are--

(A) Noncommercial items; or

(B) Commercial items that--

(1) The Contractor is reselling or distributing to the Government without adding value (generally, the Contractor does not add value to items that it contracts for f.o.b. destination shipment);

(2) Are shipped in direct support of U.S. military contingency operations, exercises, or forces deployed in humanitarian or peacekeeping operations; or

(3) Are commissary or exchange cargoes transported outside of the Defense Transportation System in accordance with 10 U.S.C. 2643.

(c) The Contractor and its subcontractors may request that the Contracting Officer authorize shipment in foreign-flag vessels, or designate available U.S.-flag vessels, if the Contractor or a subcontractor believes that --

(1) U.S.-flag vessels are not available for timely shipment;

(2) The freight charges are inordinately excessive or unreasonable; or

(3) Freight charges are higher than charges to private persons for transportation of like goods.

(d) The Contractor must submit any request for use of other than U.S.-flag vessels in writing to the Contracting Officer at least 45 days prior to the sailing date necessary to meet its delivery schedules. The Contracting Officer will process requests submitted after such date(s) as expeditiously as possible, but the Contracting Officer's failure to grant approvals to meet the shipper's sailing date will not of itself constitute a compensable delay under this or any other clause of this contract. Requests shall contain at a minimum --

(1) Type, weight, and cube of cargo;

(2) Required shipping date;

(3) Special handling and discharge requirements;

(4) Loading and discharge points;

(5) Name of shipper and consignee;

(6) Prime contract number; and

(7) A documented description of efforts made to secure U.S.-flag vessels, including points of contact (with names and telephone numbers) with at least two U.S.-flag carriers contacted. Copies of telephone notes, telegraphic and facsimile message or letters will be sufficient for this purpose.

(e) The Contractor shall, within 30 days after each shipment covered by this clause, provide the Contracting Officer and the Maritime Administration, Office of Cargo Preference, U.S. Department of Transportation, 400 Seventh Street SW., Washington, DC 20590, one copy of the rated on board vessel operating carrier's ocean bill of lading, which shall contain the following information:

(1) Prime contract number;

(2) Name of vessel;

(3) Vessel flag of registry;

(4) Date of loading;

(5) Port of loading;

(6) Port of final discharge;

(7) Description of commodity;

(8) Gross weight in pounds and cubic feet if available;

(9) Total ocean freight in U.S. dollars; and

(10) Name of the steamship company.

(f) The Contractor shall provide with its final invoice under this contract a representation that to the best of its knowledge and belief--

(1) No ocean transportation was used in the performance of this contract;

(2) Ocean transportation was used and only U.S.-flag vessels were used for all ocean shipments under the contract;

(3) Ocean transportation was used, and the Contractor had the written consent of the Contracting Officer for all non-U.S.-flag ocean transportation; or

(4) Ocean transportation was used and some or all of the shipments were made on non-U.S.-flag vessels without the written consent of the Contracting Officer. The Contractor shall describe these shipments in the following format:

| ITEM DESCRIPTION | CONTRACT LINE ITEMS | QUANTITY |
|---------------------|------------------------|----------|
| | | |
| | | |
| | | |
| | | |
| TOTAL | | |

(g) If the final invoice does not include the required representation, the Government will reject and return it to the Contractor as an improper invoice for the purposes of the Prompt Payment clause of this contract. In the event there has been unauthorized use of non-U.S.-flag vessels in the performance of this contract, the Contracting Officer is entitled to equitably adjust the contract, based on the unauthorized use.

(h) In the award of subcontracts for the types of supplies described in paragraph (b)(2) of this clause, the Contractor shall flow down the requirements of this clause as follows:

(1) The Contractor shall insert the substance of this clause, including this paragraph (h), in subcontracts that exceed the simplified acquisition threshold in part 2 of the Federal Acquisition Regulation.

(2) The Contractor shall insert the substance of paragraphs (a) through (e) of this clause, and this paragraph (h), in subcontracts that are at or below the simplified acquisition threshold in part 2 of the Federal Acquisition Regulation.

(End of clause)

252.247-7024 Notification of Transportation of Supplies by Sea (MAR 2000)

(a) The Contractor has indicated by the response to the solicitation provision, Representation of Extent of Transportation by Sea, that it did not anticipate transporting by sea any supplies. If, however, after the award of this contract, the Contractor learns that supplies, as defined in the Transportation of Supplies by Sea clause of this contract, will be transported by sea, the Contractor --

(1) Shall notify the Contracting Officer of that fact; and

(2) Hereby agrees to comply with all the terms and conditions of the Transportation of Supplies by Sea clause of this contract.

(b) The Contractor shall include this clause; including this paragraph (b), revised as necessary to reflect the relationship of the contracting parties--

(1) In all subcontracts under this contract, if this contract is a construction contract; or

(2) If this contract is not a construction contract, in all subcontracts under this contract that are for--

(i) Noncommercial items; or

(ii) Commercial items that--

(A) The Contractor is reselling or distributing to the Government without adding value (generally, the Contractor does not add value to items that it subcontracts for f.o.b. destination shipment);

(B) Are shipped in direct support of U.S. military contingency operations, exercises, or forces deployed in humanitarian or peacekeeping operations; or

(C) Are commissary or exchange cargoes transported outside of the Defense Transportation System in accordance with 10 U.S.C. 2643.

(End of clause)

Section 00 73 00 - Special Contract Requirements

SPECIAL CONTRACT REQUIREMENTS

SECTION 00 73 00 (ID/IQ)

SPECIAL CONTRACT REQUIREMENTS

1.0 GENERAL

1.1 REFERENCES – NOT USED

1.2 DESIGN/BUILD CONTRACT – ORDER OF PRECEDENCE

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1.4 SELF-PERFORMANCE OF WORK BY THE PRIME CONTRACTOR

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- 1.42 PRECONSTRUCTION MEETING
- 1.43 MILITARY BASE SECURITY

1.44 MILITARY BASE RULES AND REGULATIONS

1.45 RESERVED

1.46 CONFIRMATION OF PAYMENTS TO ALL LOWER TIER SUBCONTRACTORS

1.47 INSTALLATION ACCESS

1.48 INDIVIDUALS/WORKERS FROM COUNTRIES OF CONCERN

1.49 OPERATIONS AND STORAGE AREAS

2.0 TASK ORDER SPECIFIC CLAUSES

3.0 JCC-I/A CLAUSES

4.0 OTHER

1.0 GENERAL

1.1 REFERENCES - NOT USED

1.2 DESIGN/BUILD CONTRACT - ORDER OF PRECEDENCE

(a) The contract includes the standard contract clauses and schedules current at the time of contract award. It entails

(1) the solicitation in its entirety, including all drawings, cuts, and illustrations, and any amendments, and (2) the successful offeror's accepted proposal. The contract constitutes and defines the entire agreement between the Contractor and the Government. No documentation shall be omitted which in any way bears upon the terms of that agreement.

(b) In the event of conflict or inconsistency between any of the provisions of this contract, precedence shall be given in the following order:

(1) The provisions of the solicitations. (See also contract Clause: 52.236- 21, SPECIFICATIONS AND DRAWINGS FOR CONSTRUCTION.)

(2) All other provisions of the accepted proposal.

(3) Any design products including, but not limited to, plans, specifications, engineering studies and analyses, shop drawings, equipment installation drawings, etc. These are "deliverables" under the contract and are not part of the contract itself. Design products must conform to all provisions of the contract, in the order of precedence herein.

1.3 RESERVED

1.4 SELF-PERFORMANCE OF WORK BY THE PRIME CONTRACTOR

(a) The following describes the applicable clause or requirement for self-performance of work by the Contractor, depending upon the type of solicitation (e.g., unrestricted or full or partial set-aside) and/or whether or not a price evaluation preference was provided for in the source selection evaluation.

(b) Contract clause 52.236-1, PERFORMANCE OF WORK BY THE CONTRACTOR, is applicable to unrestricted procurement contract awards to any business except as explained in paragraphs c. and e., below.

(c) Contract Clause 52.219-14, LIMITATIONS ON SUBCONTRACTING, is the applicable requirement for awards to small business concerns for solicitations that were fully or partially set-aside for Small Business, 8(a), or award to a small disadvantaged business (SDB) concern on an unrestricted procurement where an SDB concern has claimed a price evaluation preference (but see next paragraph for suspension of the SDB price preference).

(d) The Director of Defense Procurement and Acquisition Policy has suspended the use of the price evaluation adjustment for SDBs in DoD procurements (FAR Clause 52.219-23), as required by 10 U.S.C. 2323(e)(3), because DoD exceeded its 5 percent goal for contract awards to SDBs in fiscal year 2007. The suspension will be in effect for 1 year and will be reevaluated based on the level of DoD contract awards to SDBs achieved in fiscal year 2006. This suspension applies to all solicitations issued during the period from March 10, 2008 to March 9, 2009. Said FAR Clause is not included in or made a part of this RFP. FAR Clause 52.219-4, relating to a 10% price evaluation preference for HUB ZONE small business concerns, is included in and made a part of this RFP. PLEASE NOTE HOWEVER, that paragraph (b) (3) of the FAR Clause 52.219-4, is inapplicable also due to the referenced suspension of FAR Clause 52.219-23.

1.5 KEY PERSONNEL, SUBCONTRACTORS AND OUTSIDE ASSOCIATES OR CONSULTANTS

In connection with this contract, any in-house personnel, subcontractors, and outside associates or consultants will be

limited to individuals or firms that were specifically identified in the Contractor's accepted proposal. The Contractor shall obtain the Contracting Officer's written consent before making any substitution for these designated in-house personnel, subcontractors, associates, or consultants. If the Contractor proposes a substitution, it shall submit the same type of information that was submitted in the accepted proposal to the Contracting Officer for evaluation and approval. The level of qualifications and experience submitted in the accepted proposal or that required by the Solicitation, whichever is greater, is the minimum standard for any substitution. This proposed substitution shall be made in a timely manner.

1.6 RESPONSIBILITY OF THE CONTRACTOR FOR DESIGN

- (a) The Contractor shall be responsible for the professional quality, technical accuracy, and the coordination of all designs, drawings, specifications, and other non-construction services furnished by the Contractor under this contract. The Contractor shall, without additional compensation, correct or revise any errors or deficiency in its designs, drawings, specifications, and other non-construction services and perform any necessary rework or modifications, including any damage to real or personal property, resulting from the design error or omission.
- (b) The standard of care for all design services performed under this agreement shall be the care and skill ordinarily used by members of the architectural or engineering professions practicing under similar conditions at the same time and locality. Notwithstanding the above, in the event that the contract specifies that portions of the Work be performed in accordance with a performance standard, the design services shall be performed so as to achieve such standards.
- (c) Neither the Government's review, approval or acceptance of, nor payment for, the services required under this contract shall be construed to operate as a waiver of any rights under this contract or of any cause of action arising out of the performance of this contract. The Contractor shall be and remain liable to the Government in accordance with applicable law for all damages to the Government caused by the Contractor's negligent performance of any of these services furnished under this contract.
- (d) The rights and remedies of the Government provided for under this contract are in addition to any other rights and remedies provided by law.
- (e) If the Contractor is comprised of more than one legal entity, each entity shall be jointly and severally liable hereunder.

1.7 WARRANTY OF DESIGN (FIRM-FIXED PRICE DESIGN-BUILD CONTRACT)

- (a) The Contractor warrants that the design shall be performed in accordance with the Contract requirements. Design and design related construction not conforming to the Contract requirements shall be corrected at no additional cost to the Government. The standard of care for design is defined in paragraph (b) of Special Contract Requirement RESPONSIBILITY OF THE CONTRACTOR FOR DESIGN.
- (b) The period of this warranty shall commence upon final completion and the Government's acceptance of the work, or in the case of the Government's beneficial occupancy of all or part of the work for its convenience, prior to final completion and acceptance, at the time of such occupancy.
- (c) This design warranty shall be effective from the above event through the Statute of Limitations and Statute of Repose, as applicable to the state that the project is located in.
- (d) The rights and remedies of the Government provided for under this clause are in addition to any other rights and remedies provided in this contract or by law.

1.8 CONSTRUCTOR'S ROLE DURING DESIGN

The Contractor's construction management key personnel shall be actively involved during the design process to

effectively integrate the design and construction requirements of this contract. In addition to the typical required construction activities, the constructor's involvement includes, but is not limited to actions such as: integrating the design schedule into the Master Schedule to maximize the effectiveness of fast-tracking design and construction (within the limits allowed in the contract), ensuring constructability and economy of the design, integrating the shop drawing and installation drawing process into the design, executing the material and equipment acquisition programs to meet critical schedules, effectively interfacing the construction QC program with the design QC program, and maintaining and providing the design team with accurate, up-to-date redline and as-built documentation. The Contractor shall require and manage the active involvement of key trade subcontractors in the above activities.

1.9 VALUE ENGINEERING AFTER AWARD

(a) In reference to Contract Clause 52.248-3, VALUE ENGINEERING - CONSTRUCTION, the Government may refuse to entertain a "Value Engineering Change Proposal" (VECP) for those "performance oriented" aspects of the Solicitation documents which were addressed in the Contractor's accepted contract proposal and which were evaluated in competition with other offerors for award of this contract.

(b) The Government may consider a VECP for those "prescriptive" aspects of the Solicitation documents, not addressed in the Contractor's accepted contract proposal or addressed but evaluated only for minimum conformance with the Solicitation requirements.

(c) For purposes of this clause, the term "performance oriented" refers to those aspects of the design criteria or other contract requirements which allow the Offeror or Contractor certain latitude, choice of and flexibility to propose in its accepted contract offer a choice of design, technical approach, design solution, construction approach or other approach to fulfill the contract requirements. Such requirements generally tend to be expressed in terms of functions to be performed, performance required or essential physical characteristics, without dictating a specific process or specific design solution for achieving the desired result.

(d) In contrast, for purposes of this clause, the term "prescriptive" refers to those aspects of the design criteria or other Solicitation requirements wherein the Government expressed the design solution or other requirements in terms of specific materials, approaches, systems and/or processes to be used. Prescriptive aspects typically allow the Offerors little or no freedom in the choice of design approach, materials, fabrication techniques, methods of installation or other approach to fulfill the contract requirements.

1.10 DEVIATING FROM THE ACCEPTED DESIGN

(a) The Contractor shall obtain the approval of the Designer of Record and the Government's concurrence for any Contractor proposed revision to the professionally stamped and sealed and Government reviewed and concurred design, before proceeding with the revision.

(b) The Government reserves the right to non-concur with any revision to the design, which may impact furniture, furnishings, equipment selections or operations decisions that were made, based on the reviewed and concurred design.

(c) Any revision to the design, which deviates from the contract requirements (i.e., the Request for Proposals and the accepted proposal), will require a modification, pursuant to the Changes clause, in addition to Government concurrence. The Government reserves the right to disapprove such a revision.

(d) Unless the Government initiates a change to the contract requirements, or the Government determines that the Government furnished design criteria are incorrect and must be revised, any Contractor initiated proposed change to the contract requirements, which results in additional cost, shall strictly be at the Contractor's expense.

(e) The Contractor shall track all approved revisions to the reviewed and accepted design and shall incorporate them into the as-built design documentation, in accordance with agreed procedures. The Designer of Record shall document its professional concurrence on the as-builts for any revisions in the stamped and sealed drawings and

specifications.

1.11 GOVERNMENT-FURNISHED RFP DRAWINGS, SURVEYS AND SPECIFICATIONS

This is to clarify that contract clause 252.236-7001, CONTRACT DRAWINGS AND SPECIFICATIONS, refers to any Government-furnished design or design criteria included in the Request for Proposal (RFP).

1.12 GOVERNMENT-FURNISHED SPECIFICATIONS AND DRAWINGS FOR CONSTRUCTION

This is to clarify that contract clause 252.236-21, SPECIFICATIONS AND DRAWINGS FOR CONSTRUCTION, refers to any specifications and drawings furnished in the Request for Proposal (RFP). The term “specifications” refers to the design criteria or scope of work, in addition to any attached specifications.

1.13 GOVERNMENT RE-USE OF DESIGN

In conjunction with the Clause 252.227-7022, GOVERNMENT RIGHTS UNLIMITED, the Government will not ask for additional originals or copies of the design works after the Contractor provides all required design documentation and as-built documentation under the instant contract. Further, if the Government uses the design for other projects without additional compensation to the Contractor for re-use, the Government releases the Contractor from liability in the design on the other projects, due to defects in the design that are not the result of fraud, gross mistake as amounts to fraud, gross negligence or intentional misrepresentation.

1.14 US ARMY CORPS OF ENGINEERS SAFETY AND HEALTH REQUIREMENTS MANUAL

In accordance with Contract Clause 52.236-13, ACCIDENT PREVENTION, the Contractor shall comply with the latest version of Engineer Manual 385-1-1, including any interim revisions, in effect at the time of the solicitation. For task orders, the effective date of the Engineer Manual and any interim revisions will be the date of the request for task order proposal. EM 385-1-1 and its changes are available at <http://www.hq.usace.army.mil/hqhome/>. At the HQ homepage, select HQ Offices, scroll to Safety & Occ. Health; at the Safety and Occupational Health Home page, select EM 385-1-1, then most recent dated edition & changes, English Version (controlling with changes), then Changes to EM 385-1-1.

The prime contractor shall carry out the requirements contained in EM 385-1-1 in accordance with the following:

Report accidents in accordance with EM 385-1-1 and record accident investigations on ENG Form 3394 in accordance with the OSHA requirements at 29 CFR Part 1904. Provide to the Government Designated Authority (GDA) as specified locally.

Complete the “USACE Contractor Monthly Summary Record of Injuries/Illness and Work Hour Exposure” (for prime and its subcontractors) and forward to the GDA no later than close of business (COB) the 10th day of the following month. For example, work performed for the month of February 2005 shall be recorded and provided to the GDA by COB 10 March 2005. The method of transmission by the prime contractor to the GDA shall be locally prescribed (electronic, hardcopy).

1.15 SUPPLEMENTAL PRICE BREAKDOWN INFORMATION

After each task order award, the Government will require the Contractor to provide a cost breakdown of each facility by square foot, including major building systems to the five-foot line, for programming validation purposes. There will be no separate payment for this information and the Contractor shall include it in the contract price. The Government will provide a format with the directive.

1.16 RESERVED

1.17 COORDINATION WITH OTHER CONTRACTORS

Task orders may be executed on sites with multiple contractors. Minimize interference and inconvenience through cooperation with other authorized contractors. See Contract Clause 52.236-8, Other Contracts.

1.18 CONTRACTOR PERFORMANCE EVALUATION

In accordance with the provisions of Subpart 36.201 (Evaluation of Contractor Performance) of the Federal Acquisition Regulation (FAR), construction contractor's performance shall be evaluated throughout the performance of the contract. The United States Army Corps of Engineers (USACE) follows the procedures outlined in Engineering Regulation 415-1-17 to fulfill this FAR requirement. For construction contracts and task orders awarded at or above \$100,000.00, the USACE will evaluate contractor's performance and prepare a performance report using the Construction Contractor Appraisal Support System (CCASS), which is now a web-based system. After an evaluation (interim or final) is written up by the USACE, the contractor will have the ability to access, review and comment on the evaluation for a period of 30 days. Accessing and using CCASS requires specific software, called PKI certification, which is installed on the user's computer. The certification is a Department of Defense requirement and was implemented to provide security in electronic transactions. The certification software could cost approximately \$110 - \$125 per certificate per year and is purchased from an External Certificate Authorities (ECA) vendor. Current information about the PKI certification process and for contacting vendors can be found on the web site: <http://www.cpars.csd.disa.mil/>. If the Contractor wishes to participate in the performance evaluation process, access to CCASS and PKI certification is the sole responsibility of the Contractor.

1.19 NOTICE TO PROCEED

Proof of insurance must be provided within 10 calendar days of contract award. Performance and payment bonds must be provided within 15 calendar days of the contractor's receipt of the Task Order. A Notice to Proceed for each Task Order will not be issued until the Government is in receipt of proof of insurance and acceptable performance and payment bonds.

1.20 BONDING REQUIREMENTS

Performance and payment bonds will be provided on a task-order basis, except that if a task order is not issued concurrently with the contract award or the exercise of an option period, the Contractor will be required to provide a performance and a payment bond each in the amount of 100% of the minimum guaranteed amount (\$) for the base period. When the next subsequent task order is issued, the contractor will be required to either increase the penal amounts of the existing bonds or obtain additional or new bonds such that the penal amounts of the performance and payment bonds each equal 100% of the task order price.

1.21 SCHEDULES, PLANS, AND SUBMITTALS REQUIRED BY THE TECHNICAL SPECIFICATIONS

The Contractor will be required to provide the schedule, plans, and submittals required by the Technical Specifications on a Task Order basis, unless otherwise directed by the Contracting Officer.

1.22 INDEFINITE-DELIVERY CONTRACTS

(a) This contract is an indefinite-delivery indefinite-quantity (IDIQ) contract. All work shall be performed through issuance of task orders. The Contractor shall perform no work under this contract unless a written task order, signed by the Contracting Officer, has been issued by the Government. The Contractor shall complete all work described in the scope of work for each task order within the performance period of each task order. A US Army Corps of Engineers, Middle East District, Contracting Officer is the only person authorized to issue task orders against this contract, unless otherwise authorized by the Contracting Officer. Task Orders may be issued via FACSIMILE, with hard copy of the task order to follow. The effective date of the task order, if FACSIMILE is used, is the date the Government receives verbal or written confirmation of receipt from the Contractor.

(b) The Government reserves its right to conduct individual Task Order competitions by the use of any procurement

method authorized by law, e.g. best value; lowest-price, technically acceptable; sealed bid, etc. Such method will be clearly communicated to MATOC awardees in the requisite Request for Proposal (RFP) for each Task Order. Fixed price task orders will be awarded based on the criteria set forth in each Task Order RFP. After acceptance of the fixed price task order by the Contractor, the contract price will only be adjusted to reflect changes in scope or conditions governed by other clauses (differing site conditions, etc.).

(c) The overall contract period has a guaranteed minimum amount of \$10,000. The Contractor shall be paid the guaranteed minimum only if work equal to or exceeding the guaranteed minimum is not ordered in the ordering period of the contract. Funds other than the stated guaranteed minimum shall be obligated by issuance of individual task orders and not by this contract. Fund availability evidence shall be cited on each task order issued under the contract. The total estimated amount for the basic contract period and option periods is as stated in the Pricing Schedule, Section 00 11 00.

(d) In the event of any inconsistency between the contract and any task order, the terms and conditions of the contract shall control.

The scope of the initial task orders includes all work required to design-build or construct the projects identified. The work shall be in accordance with the Request for Proposal documents issued with the initial task orders.

Task Order Competition - Once all the MATOCs are awarded, task orders will be awarded against the basic ID/IQ contracts using the fair opportunity procedures discussed in FAR 16.5 in addition to the competitive source selection procedures identified in Section 863 of Public Law 107-107 and implemented in DFARS 216.505-70. Each order exceeding \$3,000.00 will be awarded on a competitive basis in accordance with FAR 16.505 and DFARS 216.505-70 (c), unless an exception described in FAR 16.505(b)(2)(i) through (iv) or DFARS 216.505-70(b)(1) applies. The unique selection criteria for each task order award will be provided in the task order request for proposal. However, the typical evaluation criteria utilized at the task order level will be:

- 1) Technical approach (resourcing plan, personnel qualifications, regulatory interface relationships, alternate language and cultural requirements, work plan acceptance, clear understanding of work requirements, geographic experience, technical approach, technical competency, and/or overall strategy for work execution – some or all will be used in each task order competition as determined necessary),
- 2) Subcontracting Plan Addendum (for US large business) is only applicable for that portion of the work contemplated to be performed in the US.
- 3) Utilization of U.S. Small/Local Foreign Business Plan Addendum is required for all awardees.
- 4) Price/price-related factors.

The evaluation will be conducted in strict accordance with the selection criteria identified in the task order request for proposal documents and documented in accordance with local policy and procedures.

1.23 RESERVED

1.24 ORGANIZATIONAL CONFLICT OF INTEREST CLAUSES

(a) Organizational Conflict of Interest (This clause is applicable to task orders which contain requirements for assessment and analyses of designs and specifications prepared by others.)

Since the services to be performed under this contract include the assessment and review of or comment on designs and specifications, scopes of work or work statements prepared by others, it is understood and agreed, pursuant to Subpart 9.505 of the Federal Acquisition Regulation that:

(i) The Contractor and its affiliates, associates, subsidiaries, subcontractors, and consultants are hereby prohibited from and shall not submit bids or offers or otherwise participate directly or indirectly in the preparation of any

response to any solicitation issued by the Government or perform any portion of a contract awarded by the Government, which includes all or any portion of the documents assessed, reviewed or commented upon by the Contractor under this contract.

(ii) The Contractor has informed its affiliates, associates, subsidiaries, subcontractors, and consultants of this restriction and obtained its concurrence in it prior to execution of this contract.

(iii) The Contractor agrees to hold the Government harmless and reimburse the Government for any monetary damages or costs the Government may incur as a result of suit or legal action instituted by the Contractor's affiliates, associates, subsidiaries, subcontractors or consultants because of the Government's subsequent rejection of bids or offers submitted by such entities in response to any solicitation identified in subparagraph a above.

(iv) Subparagraphs a and c shall likewise apply to any affiliates, associates, subsidiaries, subcontractors and consultants established subsequent to award of this contract.

(v) This restriction is limited to either (a) the initial solicitation(s) issued by the Government which includes the designs or specifications, scopes of work or work statements assessed, reviewed or commented upon under the contract and which results in an award of a contract, or (b) a period of 2 years from the date of issuance of the final payment under this contract, whichever occurs first.

(b) Organizational Conflict of Interest (This clause is applicable to task orders which contain requirements for the design of certain facilities or equipment and for which FAR 9.505-2 applies:)

Since the services to be performed under this contract include the design of certain facilities or equipment, it is understood and agreed, pursuant to Subpart 9.505 of the Federal Acquisition Regulation that:

(i) Subpart 9.505-2 of the Federal Acquisition Regulation is applicable to this contract;

(ii) The Contractor and its affiliates, associates, subsidiaries, subcontractors, and consultants are hereby prohibited from and shall not submit bids or offers or otherwise participate directly or indirectly in the preparation of any response to any solicitation issued by the Government or perform any portion of a contract awarded by the Government, which includes all or any portion of the facilities or equipment designed or redesigned by the Contractor under this contract.

(iii) The Contractor has informed its affiliates, associates, subsidiaries, subcontractors, and consultants of this restriction and obtained its concurrence in it prior to execution of this contract.

(iv) The Contractor agrees to hold the Government harmless and reimburse the Government for any monetary damages or costs the Government may incur as a result of suit or legal action instituted by the Contractor's affiliates, associates, subsidiaries, subcontractors or consultants because of the Government's subsequent rejection of bids or offers submitted by such entities in response to any solicitation identified in subparagraph ii above.

(v) Subparagraphs ii and iv shall likewise apply to any affiliates, associates, subsidiaries, subcontractors and consultants established subsequent to award of this contract.

(vi) This restriction is limited to either (a) the initial solicitation(s) issued by the Government which results in an award of a contract, or (b) a period of 2 years from the date of issuance of the final payment under this contract, whichever occurs first.

(c) Organizational Conflict of Interest (This clause is applicable to task orders which contain requirements for the design of certain facilities or equipment and for which FAR 9.505-2 does not apply:)

Since the services to be performed under this contract include the criteria development of certain facilities or equipment, it is understood and agreed, pursuant to Subpart 9.505 of the Federal Acquisition Regulation that:

(i) The Contractor and its affiliates, associates, subsidiaries, subcontractors, and consultants are hereby prohibited from and shall not submit bids or offers or otherwise participate directly or indirectly in the preparation of any response to any solicitation issued by the Government or perform any portion of a contract awarded by the Government, which includes all or any portion of the facilities or equipment for which criteria has been developed by the Contractor under this contract.

(ii) The Contractor has informed its affiliates, associates, subsidiaries, subcontractors, and consultants of this restriction and obtained its concurrence in it prior to execution of this contract.

(iii) The Contractor agrees to hold the Government harmless and reimburse the Government for any monetary damages or costs the Government may incur as a result of suit or legal action instituted by the Contractor's affiliates, associates, subsidiaries, subcontractors or consultants because of the Government's subsequent rejection of bids or offers submitted by such entities in response to any solicitation identified in subparagraph a above.

(iv) Subparagraphs a and c shall likewise apply to any affiliates, associates, subsidiaries, subcontractors and consultants established subsequent to award of this contract.

(v) This restriction is limited to either (a) the initial solicitation(s) issued by the Government which results in an award of a contract, or (b) a period of 2 years from the date of issuance of the final payment under this contract, whichever occurs first.

(d) Organizational Conflict of Interest (This clause is applicable to task orders which contain requirements for the design of certain facilities or equipment, the development of criteria for certain facilities or equipment, the development of scopes of work for follow-on design or services contracts, and the development of technical specifications, design guide specifications, construction specifications or performance specifications.) Since the services to be performed under this contract include the design of certain facilities or equipment, the development of criteria for certain facilities or equipment, the development of scopes of work for follow-on design or services contracts, and the development of technical specifications, design guide specifications, construction specifications or performance specifications, it is understood and agreed, pursuant to Subpart 9.505 of the Federal Acquisition Regulation that:

(i) Subpart 9.505-2 of the Federal Acquisition Regulation is applicable to this contract;

(ii) The Contractor and its affiliates, associates, subsidiaries, subcontractors, and consultants are hereby prohibited from and shall not submit bids or offers or otherwise participate directly or indirectly in the preparation of any response to a solicitation issued by the Government or perform any portion of a contract awarded by the Government, which includes all or any portion of the facilities or equipment designed or redesigned by the Contractor under this contract, that includes the criteria for certain facilities or equipment developed by the Contractor under this contract, or contains the scopes of work or technical, design guide, construction or performance specifications developed under this contract.

(iii) The Contractor has informed its affiliates, associates, subsidiaries, subcontractors, and consultants of this restriction and obtained its concurrence in it prior to execution of this contract.

(iv) The Contractor agrees to hold the Government harmless and reimburse the Government for any monetary damages or costs the Government may incur as a result of suit or legal action instituted by the Contractor's affiliates, associates, subsidiaries, subcontractors or consultants because of the Government's subsequent rejection of bids or offers submitted by such entities in response to any solicitation identified in subparagraph b above.

(v) Subparagraphs ii and iv shall likewise apply to any affiliates, associates, subsidiaries, subcontractors and consultants established subsequent to award of this contract.

(vi) This restriction is limited to either (a) the initial solicitation(s) issued by the Government which results in an award of a contract, or (b) a period of 2 years from the date of issuance of the final payment under this contract,

whichever occurs first.

1.25 SEQUENCE OF DESIGN-CONSTRUCTION

(a) After receipt of the Contract Notice to Proceed (NTP) the Contractor shall initiate design, comply with all design submission requirements as covered under Division 01 General Requirements, and obtain Government review of each submission. No construction may be started, until the Government reviews the Final Design submission and determines it satisfactory for purposes of beginning construction. The ACO or COR will notify the Contractor when the design is cleared for construction. The Government will not grant any time extension for any design resubmittal required when, in the opinion of the ACO or COR, the initial submission failed to meet the minimum quality requirements as set forth in the Contract.

(b) If the Government allows the Contractor to proceed with limited construction based on pending minor revisions to the reviewed Final Design submission, no payment will be made for any in-place construction related to the pending revisions until they are completed, resubmitted and are satisfactory to the Government.

(c) No payment will be made for any in-place construction until all required submittals have been made, reviewed and are satisfactory to the Government.

1.26 RESERVED

1.27 CONTRACTOR LIAISON WITH HOST GOVERNMENT

All communication by the Contractor with all officials, representatives and/or offices of the Host Government in all matters pertaining to the design or construction of this contract, shall be through and in full liaison with the Contracting Officer. This does not relinquish Contractor responsibility for obtaining routine items to conduct day-to-day business, such as visas, permits, and custom clearances.

1.28 ENGLISH SPEAKING REPRESENTATIVE

At all times when any performance of the work at any site is being conducted by any employee of the Contractor or his subcontractors, the Contractor shall have a representative present at each site who has the capability of receiving instructions in the English language, fluently speaking the English language and explaining the work operations to persons performing the work in the language that those performing the work are capable of understanding. The Contracting Officer shall have the right to determine whether the proposed representative has sufficient technical and lingual capabilities, and the Contractor shall immediately replace any individual not acceptable to the Contracting Officer.

1.29 IDENTIFICATION OF EMPLOYEES

The Contractor shall be responsible for furnishing to each employee engaged on the work to display such identification as may be approved and directed by the Contracting Officer. All prescribed identification shall immediately be delivered to the Contracting Officer for cancellation upon the release of any employee. When required by the Contracting Officer, the Contractor shall obtain and submit fingerprints of all persons employed or to be employed on the project.

1.30 OTHER WORK

The Contractor shall fully cooperate with other Contractors, utility companies, and Government employees engaged in other work on and/or adjacent to the work to be performed under this contract. The Contractor shall coordinate the work herein and the use of haul roads, aggregate sources, and utilities that become a joint responsibility. Any damage resulting from the use of facilities of other Contractors shall immediately be repaired to the satisfaction of, or as directed by the Contracting Officer.

1.31 SUBMITTING PAY ESTIMATES AND PAYMENTS TO THE CONTRACTOR

The Contractor shall use Engineer Form 93 (ENG 93), Payment Estimate – Contract Performance, as its request for payment. The ENG Form 93 shall be sent to the Contracting Officer's Representative for certification that the work invoiced has been performed. His mailing address for submission of the ENG Form 93 will be provided immediately upon appointment. The Project Manager is responsible for ensuring acceptance and approval for payment. Advance payments will not be made.

Payment will be made in U.S. Dollars.

The payment office is designated in Block 27 of the Standard Form 1442.

Method of Payment. Payment by Electronic Transfer

The Contractor must submit the certification at FAR Clause 52.232-5, paragraph (c) along with each request for progress payments.

1.32 CONTRACTOR'S RADIO COMMUNICATION FACILITY

The United States Government does not guarantee the Contractor the right to operate a radio communication facility. If the Contractor desires to establish a radio communication system, he will be responsible for obtaining all permits, licenses, and frequencies from the host government.

1.33 RESERVED

1.34 IMPLEMENTING EQUIPMENT GUARANTEES

When the completed facility or part of a facility is accepted by the Contracting Officer, and the work includes equipment covered by a guarantee which exceeds the warranty of construction period as specified, the Contractor shall furnish the following information to the Contracting Officer:

- a. A list of all items with make and model numbers.
- b. A copy of manufacturer's or vendor's guarantee documents which extend beyond the warranty of construction period.
- c. The date during which the Contractor's guarantee is in effect under the properly identified individual section and paragraph of the Technical Provisions each item of equipment on the list, indicating for each item the date of acceptance for the beginning of the guarantee period, either for beneficial use or final acceptance, whichever is earlier, and the expiration date of the guarantee period.
- d. Name of an authorized representative of the prime Contractor with complete address and telephone number, and the names, addresses, and telephone numbers of all subcontractors and/or equipment suppliers or manufacturers specifically designated in writing by the prime Contractor for direct contact by the Afghanistan Government for implementing the guarantee after transfer of the equipment.

1.35 SAFEGUARDING OF INFORMATION

The personnel employed on this contract may, in the performance of their assigned duties, have access to data and information pertaining to location of goods, supplies, parts, equipment, vehicles, and explosives. Knowledge of this nature is considered restricted security information. This information shall be protected and safeguarded against disclosure to any unauthorized person or party and shall be furnished or used on an official "need to know" basis

only. Safeguarding of information is extended to dependents and guests of employees who may, in any manner, obtain knowledge of the Host Government military capacity. Taking of photographs of any airport, military installation, or military facility is prohibited.

1.36 REQUIRED INSURANCE

(a) The Contractor shall procure and maintain during the entire period of his performance under this contract the insurance required by the General Provisions of this contract entitled Workmen's compensation Insurance (Defense Base Act), and Workmen's Compensation and War Hazard Insurance Overseas. A blanket waiver of the provisions of the Defense Base Act is in effect for all employees of contractors and subcontractors working on Department of the Army contracts who are neither residents nor citizens of the United States, nor who were hired in the United States, at the following locations only:

| | |
|----------------------|-------------------|
| Belgium | South America |
| Germany | Honduras |
| Japan | El Salvador |
| Oman | Qatar |
| United Arab Emirates | Botswana |
| Saudi Arabia | South Korea |
| Bahama Island | Territory of Guam |
| Kazakhstan | Israel |
| Italy | American Somoa |
| Turkey | |

The waiver does not apply to any employees who are:

- (1) Hired in the United States by an contractor or subcontractor;
- (2) Residents of the United States; or
- (3) Citizens of the United States.

(b) Prior to the commencement of work hereunder, the Contractor shall furnish to the Contracting Officer a certificate or written statement of required insurance. The policies evidencing required insurance shall contain an endorsement to the effect that cancellation or any material change in the policies adversely affecting the interests of the Government in such insurance shall not be effective for such period as may be prescribed by the laws of the state in which this contract is to be performed in no event less than thirty (30) days after written notice thereof to the Contracting Officer.

1.37 WORKERS COMPENSATION INSURANCE (DEFENSE BASE ACT) – CONSTRUCTION (OCT 2009)

(a) This Special Contract Requirement supplements FAR Clause 52.228-3 Workers' Compensation Insurance (Defense Base Act).

(b) The contractor agrees to procure Defense Base Act (DBA) insurance pursuant to the terms of the contract between the U.S. Army Corps of Engineers (USACE) and CNA Insurance unless the contractor has a DBA self-insurance program approved by the Department of Labor. Proof of this self-insurance shall be provided to the Contracting Officer. The contractor shall submit proof of a valid DBA Insurance policy with CNA Insurance for the Prime and their Subcontractor's at every tier prior to performance of the contract. The current rate under the USACE and JCC-I/A contract is \$6.00 per \$100 of compensation for construction.

(c) The contractor agrees to insert a Special Contract Requirement substantially the same as this one in all subcontracts (at every tier) to which DBA is applicable.

(d) Should the rates for DBA insurance coverage increase or decrease during the performance of this contract, USACE shall modify the contract accordingly. However, the revised rates will not be applicable until the Contractor's or Subcontractor's DBA Insurance policy is due to be renewed.

(e) Premiums will be reimbursed only if coverage is purchased through the USACE mandatory requirements DBA contract administered by CNA Insurance and their Managing Broker, Rutherford International.

(f) Failure to comply and purchase Defense Base Act (DBA) Insurance in accordance with FAR Clauses 52.228-3 Workers' Compensation Insurance (Defense Base Act), from the U.S. Army Corps of Engineers mandatory Insurance Carrier/Broker (CNA Insurance/Rutherford International) for the Prime and all of the Subcontractors at every tier, shall be considered a material breach and could cause your contract to be terminated for default/cause.

1.38 PUBLIC RELEASE OF INFORMATION

The contractor shall coordinate with the Middle East District of the U.S. Army Corps of Engineers for release of information to the public concerning this contract or any program related to this contract. This clause covers Media Relations and Printed Materials.

1.39 MEDIA RELATIONS

The contractor is permitted to speak to news media representatives in accordance with his firm's public relations policies and in conjunction with applicable U.S. government or Army Corps of Engineers' guidelines on release of information related to the specific program for which the contract was awarded. The contractor is required to inform the Middle East District of significant media contacts. The contractor is encouraged to coordinate directly with the Middle East District's Public Affairs Officer, as necessary, when the media call is being responded to; however, this shall not preclude the contractor from responding to media requests in a timely manner. The contractor shall respond to inquiries that directly fall within his domain; he shall not speak for the Army or the Corps.

1.40 PRINTED MATERIALS

The contractor shall not release to anyone outside the contractor's organization any unclassified information, regardless of medium, pertaining to this contract, unless:

The Middle East District has given written approval, either by the Public Affairs Officer or by the Contracting Officer;

Or the information is otherwise in the public domain before the date of release.

The contractor shall obtain approval from the Middle East District prior to the dissemination of any briefings or speeches, news releases, articles, fact sheets, advertisements, or any other informational materials intended for public release that are the result of work performed or to be performed under this contract. This review is intended to insure that public release of material does not violate government policy.

Requests for approval shall identify the specific information to be released, the medium to be used, and the purpose for release. This material shall be submitted to the Public Affairs Officer and to the Contracting Officer at the Middle East District. The contractor shall strive to provide five working days for such approvals. Materials to be released within a shorter period of time will require special handling procedures, and the contractor shall request special consideration directly to the Public Affairs Officer or to the Contracting Officer.

The Contractor agrees to include a similar requirement in each subcontract under this contract. Subcontractors shall submit requests for authorization to release through the prime contractor to the government (the Public Affairs Officer and the Contracting Officer), assuring the government that the prime contractor is knowledgeable of the action and concurs.

Nothing in the foregoing section on public release of information shall affect compliance with the clause of the contract entitled, "Security Requirements."

1.41 IRREVOCABLE LETTER OF CREDIT (ILC)

An Irrevocable Letter(s) of Credit may be provided as surety for performance and payment bonds. If the contractor elects to utilize an Irrevocable Letter(s) of Credit, the following applies:

Within fifteen (15) calendar days after the date of the task order, the Contractor shall furnish the Contracting Officer with an Irrevocable Letter(s) of Credit which represent the deposit required of the Contractor to guarantee fulfillment of his obligations for the satisfactory, complete, and timely performance of the work ("performance ILC"), and full payment of all subcontractors and suppliers ("payment ILC").

The Irrevocable Letter(s) of Credit shall conform to the exact form and format as the sample Irrevocable Letter of Credit that is provided as an attachment to this contract. The Irrevocable Letter(s) of Credit shall be dated as of the contract date or no more than fifteen (15) calendar days thereafter.

The performance ILC will remain in effect at an amount equal to a minimum of 30 percent (30%) of the original task order price (at the discretion of the Contracting Officer up to 100 percent (100%)) until the anticipated completion date or until the task order has been finally accepted by the Government, whichever occurs first, it will continue in effect thereafter for one (1) year in an amount equal to five percent (5%) of the original task order price after which time the ILC shall become null and void.

The payment ILC will remain in effect at an amount equal to 100 percent (100%) of the original task order price and shall be decreased in amounts equivalent to releases executed by subcontractors and suppliers for payment. It shall continue in effect for 120 days after the task order work has been finally accepted by the Government, after which time the ILC shall become null and void.

The ILC shall also state that the bank agrees and consents that the contract may be modified by a change order or supplemental agreement without affecting the validity of the ILC. The provisions of paragraph (g) of the Contract Clause 52.232-5, entitled "PAYMENTS UNDER FIXED PRICE CONSTRUCTION CONTRACTS" applies to ILC.

1.42 PRECONSTRUCTION MEETING

A Pre-construction Meeting will be held prior to commencement of work. In general, the meeting is required to address the Contractor's Quality Control Program, the Contractor's Accident Prevention Program, submittals, correspondence, schedules, access to the work site, security requirements and issues, interface requirements, temporary facilities and services, hazards and risks, environmental considerations, work hours, assignment of inspectors, representations, phasing and any special requirements or other aspects of the work that warrant clarification and understanding. The Contractor's Quality Control System Manager shall prepare detailed minutes of each of the conference and submit to the Contracting Officer within three (3) work days. Any corrections deemed necessary by the Contracting Officer shall be incorporated and resubmitted within two (2) work days of receipt. Upon approval of the minutes by the Contracting Officer, the Contractor shall distribute the minutes to all parties present at the meeting.

1.43 MILITARY BASE SECURITY REQUIREMENTS

The Base security maintains the ultimate authority for establishing, monitoring, and enforcing security requirements for the work site. All Contractor, Subcontractor, or vendor personnel and vehicles at any location on the facilities are subject to a thorough search upon entering, departing, or at any time deemed necessary by Base Security Personnel. The Contractor shall be responsible for compliance with all Base security requirements. Base Security reserves the right to deny access or to require the Contractor to remove any personnel or equipment deemed to be a

threat to the security of facilities or facility personnel. The Contractor shall work through the Contracting Officer to assure that all Security Regulations are followed.

1.44 MILITARY BASE RULES AND REGULATIONS

The Contractor and his employees and Subcontractors shall become familiar with and obey all rules and regulations including fire, traffic and security regulations. All personnel employed on the facilities shall keep within the limits of the work (and venues of ingress and egress), and shall not enter any Restricted Areas unless required to do so and prior clearance for such entry is obtained. The Contractor's equipment shall be conspicuously marked for identification.

1.45 RESERVED

1.46 CONFIRMATION OF PAYMENTS TO ALL LOWER TIER SUBCONTRACTORS

To further provide for the development of local economies through the use of Local Businesses, MATOC prime contractors will be tasked with following up on subcontractor payment certifications to safeguard against subcontractor non-payment to lower tier subcontractors and material providers. Each MATOC prime contractor will be required to certify, at the time of each application for payment, that it has investigated and confirmed that all prior progress payments have been applied to the accounts of the lower tier subcontractors and material suppliers for whom the prior progress payments were made. Such certification shall be treated as one of the requirements of a "proper invoice" under FAR 52.232-5(c), thereby allowing the Government to reject any invoice that fails to provide the required certification. In accordance with FAR 52.232-5(c), the Government will ensure that this certification is made by the MATOC prime contractor or invoice payment shall not be made.

1.47 INSTALLATION ACCESS

Work under this contract may be performed at a location with security and access control procedures. Compliance with base pass and access procedures is the sole responsibility of the Contractor, and is required to be accomplished prior to initiation of the process for gaining access to controlled sites. Contractor shall be responsible for determining the nature and amount of any fees required. Contractor is responsible for all workers granted access pursuant to work under this contract.

a. Other Data: Contractor shall provide additional data, as required and not specifically indicated above, to secure all required passes for where work is required to be performed.

b. Compliance with Revised Requirements: The government may revise requirements and procedures for obtaining passes and/or access to the site of work at any time during the life of the contract. Contractor shall comply with all such requirements, as directed by the Contracting Officer.

c. Contractor shall employ an acceptable system for accountability and control of all compound passes/access badges issued to him. Passes/Access Badges shall be returned to the Government as soon as they are no longer required. This system shall be approved by the Contracting Officer, and shall be modified as directed by the Contracting Officer to correct any deficiencies noted during contract performance in maintaining an acceptable level of accountability and control.

(End of Requirement)

1.48 INDIVIDUALS/WORKERS FROM COUNTRIES OF CONCERN

Citizens of numerous countries are subject to additional levels of security screening and/or may be prohibited access to the work site. Contractor is responsible for determining access restrictions and compliance with the same.

(End of Requirement)

1.49 OPERATIONS AND STORAGE AREAS

a.. Limited areas for use by the Contractor exist on any of the work sites covered by this contract. Areas to be provided for Contractor's use in operation of his offices, shops, and storage facilities will be designated by the Contracting Officer's on-site representative. The Contractor shall not be authorized to have living accommodations for his work force on any worksite. Contractor shall be responsible for providing all off-site facilities necessary to effectively and efficiently manage, administer, and prosecute the contract work. Contractor shall be responsible for obtaining and payment of all fees and other costs related to obtaining required Host Nation or local authorizations, permits and licenses necessary to establish quarry operations, batching operations and haul routes and disposal sites.

b. All Contractor facilities shall be of substantial construction suitable for local weather conditions. Sanitary facilities shall meet the requirements of Corps of Engineers Safety and Health Requirements Manual EM 385-1-1. Except as specifically approved by the Contracting Officer, Contractor shall construct a temporary 1.8 meter high chain link fence around all trailers and materials storage areas. Fences shall include plastic strip inserts, colored brown, so that visibility through the fence is obstructed.

(1) Administrative Facilities: The Contractor may be provided the use of a parcel of land. The Contractor shall be required to provide, at his own expense, any improvements to this site such as surfacing, fencing, trailers, and/or sheds that are necessary for performance of work under this contract. The site shall be maintained to present a neat and orderly appearance.

(2) Communications: Contractor may be allowed to use commercial telephone service if available. If available, it is the Contractor's responsibility to arrange for service installation and any recurring charges.

(End of Requirement)

2.0 TASK ORDER SPECIFIC CLAUSES:

Note: In addition to the clauses provided herein, Contractor must comply with all applicable U.S., Host Nation, federal and local environmental regulations.

All offerors should note any or all of the following clauses may be included in discrete Task Orders as determined necessary by the Contracting Officer:

| | | | |
|-----|--------------|--|----------|
| 2.1 | 252.225-7022 | Trade Agreements Certificate – Inclusion of Iraqi End products | SEP 2008 |
| 2.2 | 252.225-7023 | Preference for Products or Services from Iraq or Afghanistan | SEP 2008 |
| 2.3 | 252.225-7024 | Requirement for Products or Services from Iraq or Afghanistan | SEP 2008 |

2.4 TIME EXTENSIONS FOR UNUSUALLY SEVERE WEATHER

1. This provision specifies the procedure for determination of time extensions for unusually severe weather in accordance with the contract clause entitled "Default: (Fixed Price Construction)". In order for the Contracting Officer to award a time extension under this clause, the following conditions must be satisfied:

a. The weather experienced at the project site during the contract period must be found to be unusually severe, that is, more severe than the adverse weather anticipated for the project location during any given month.

b. The unusually severe weather must actually cause a delay to the completion of the project. The delay must be beyond the control and without the fault or negligence of the contractor.

2. The following schedule of monthly anticipated adverse weather delays is based on National Oceanic and Atmospheric Administration (NOAA) or similar data for the project location and will constitute the base line for monthly weather time evaluations. The contractor's progress schedule must reflect these anticipated adverse weather delays in all weather dependent activities.

TO BE DETERMINED FOR EACH TASK ORDER

3. Upon acknowledgment of the Notice to Proceed (NTP) and continuing throughout the contract, the contractor will record on the daily CQC report, the occurrence of adverse weather and resultant impact to normally scheduled work. Actual adverse weather delay days must prevent work on critical activities for 50 percent or more of the contractor's scheduled work day.

3.0 JCC-I/A CLAUSES

JCC-I/A CLAUSE 952.222-0001

PROHIBITION AGAINST HUMAN TRAFFICKING, INHUMANE LIVING CONDITIONS, AND WITHHOLDING OF EMPLOYEE PASSPORTS (AUG 2009)

(a) All contractors ("contractors" refers to both prime contractors and all subcontractors at all tiers) are reminded of the prohibition contained in Title 18, United States Code, Section 1592, against knowingly destroying, concealing, removing, confiscating, or possessing any actual or purported passport or other immigration document, or any other actual or purported government identification document, of another person, to prevent or restrict or to attempt to prevent or restrict, without lawful authority, the person's liberty to move or travel, in order to maintain the labor or services of that person, when the person is or has been a victim of a severe form of trafficking in persons.

(b) Contractors are also required to comply with the following provisions:

(1) Contractors shall only hold employee passports and other identification documents discussed above for the shortest period of time reasonable for administrative processing purposes.

(2) Contractors shall provide all employees with a signed copy of their employment contract, in English as well as the employee's native language that defines the terms of their employment/compensation.

(3) Contractors shall not utilize unlicensed recruiting firms, or firms that charge illegal recruiting fees.

(4) Contractors shall be required to provide adequate living conditions (sanitation, health, safety, living space) for their employees. Fifty square feet is the minimum acceptable square footage of personal living space per employee. Upon contractor's written request, contracting officers may grant a waiver in writing in cases where the existing square footage is within 20% of the minimum, and the overall conditions are determined by the contracting officer to be acceptable. A copy of the waiver approval shall be maintained at the respective life support area.

(5) Contractors shall incorporate checks of life support areas to ensure compliance with the requirements of this Trafficking in Persons Prohibition into their Quality Control program, which will be reviewed within the Government's Quality Assurance process.

(6) Contractors shall comply with international laws regarding transit/exit/entry procedures, and the requirements for work visas. Contractors shall follow all Host Country entry and exit requirements, including requirements for visas and work permits.

(c) Contractors have an affirmative duty to advise the Contracting Officer if they learn of their employees violating the human trafficking and inhumane living conditions provisions contained herein. Contractors are advised that contracting officers and/or their representatives will conduct random checks to ensure contractors and subcontractors at all tiers are adhering to the law on human trafficking, humane living conditions and withholding of passports.

(d) The contractor agrees to incorporate the substance of this clause, including this paragraph, in all subcontracts under his contract.

(End)

JCC-I/A CLAUSE 952.223-0001

REPORTING KIDNAPPINGS, SERIOUS INJURIES AND DEATHS (MAR 2009)

Contractors shall notify the Contracting Officer, as soon as practicable, whenever employee kidnappings, serious injuries or deaths occur.

Report the following information:

Contract Number
 Contract Description & Location
 Company Name
 Reporting party:
 Name
 Phone number
 E-mail address
 Victim:
 Name
 Gender (Male/Female)
 Age
 Nationality
 Country of permanent residence
 Incident:
 Description
 Location
 Date and time
 Other Pertinent Information

(End)

JCC-I/A CLAUSE 952.225-0001

ARMING REQUIREMENTS AND PROCEDURES FOR PERSONAL SECURITY SERVICES CONTRACTORS AND FOR REQUESTS FOR PERSONAL PROTECTION (FEB 2010)

(a) **General.** Contractor and its subcontractors at all tiers that require arming under this contract agree to obey all laws, regulations, orders, and directives applicable to the use of private security personnel in Iraq and Afghanistan, including U.S. CENTCOM, United States Forces – Iraq (USF-I) and United States Forces – Afghanistan (USFOR-A) Commander orders, instructions and directives. Contractors will ensure that all employees, including employees at any tier of subcontracting relationships, who will seek individual authorization to be armed under the provisions of this contract (requests for blanket authorization for groups or organizations will not be approved), comply with the contents of this clause and with the requirements set forth in the following:

(1) DODI 3020.50, *Private Security Contractors (PSCs) Operating in Contingency Operations*;

(2) DODI 3020.41, *Program Management for Acquisition and Operational Contract Support in Contingency Operations*;

(3) DFARS 252.225-7040, *Contractor Personnel Supporting a Force Deployed Outside the United States*;

(4) Class Deviation 2007-O0010, Contractor Personnel in the United States Central Command Area of Responsibility

(5) USFOR-A, FRAGO 09-206, Outlines Management of Armed Contractors and Private Security Companies Operating in the Combined Joint Operating Area - Afghanistan (CJOA-A)

(6) USF-I OPORD 10-01, Annex C, Appendix 13

(7) U.S. CENTCOM Message, *USCENTCOM Policy and Delegation of Authority for Personal Protection and Contract Security Service Arming of DoD Civilian Personnel and Contractors for Iraq and Afghanistan*, dated 23 Dec 2005

(8) U.S. CENTCOM Message, *Modification to USCENTCOM Civilian and Contractor Arming Policy and Delegation of Authority for Iraq and Afghanistan*, dated 07 Nov 2006

(9) U.S. CENTCOM Message, *Modification 3 to USCENTCOM Civilian and Contractor Arming Policy and Delegation of Authority in Iraq and Afghanistan*, dated 09 Jun 2009

(b) **Required Government Documentation.** An O-6 or GS-15 (or above) from the unit requesting the contractor security shall provide a description of the following to the arming approval authority via the contracting officer representative (COR) in sponsoring each individual request for arming (under paragraph (c) below:

(1) The specific location where the PSC employee will operate;

(2) The persons and/or property that require protection;

(3) The anticipated threat;

(4) The requested weapon type(s), including serial number when possible;

(5) The reason current security/police forces are unable to provide adequate protection; and

(6) Verification, under paragraph (e) below, that background checks have been conducted and that no records were found of convictions or other acts that should be known to the arming authority.

(c) **Required Contractor Documentation.** Contractors and their subcontractors at all tiers that require arming approval shall provide to the arming approval authority via the COR consistent documentation (signed and dated by the employee and employer as applicable) for each of their employees who will seek authorization to be armed under the contract as follows:

(1) **Weapons Qualification/Familiarization.** All employees must meet the weapons qualification requirements on the requested weapon(s) established by any DoD or other U.S. government agency, Law of Armed Conflict (LOAC); Rules for the Use of Force (RUF), as defined in the U.S. CENTCOM Policy, dated 23 December 2005; and distinction between the above-prescribed RUF and the Rules of Engagement (ROE), which are applicable only to military forces.

(2) Completed DD Form 2760 (or equivalent documentation) for each armed employee, indicating that the employee is not otherwise prohibited under U.S. law from possessing the required weapon or ammunition.

(3) Written acknowledgement by the individual of the fulfillment of training responsibilities and the conditions for the authorization to carry firearms. This document includes the acknowledgement of the distinctions between the ROE applicable to military forces and RUF that control the use of weapons by DoD civilians, DoD contractors and PSCs.

(4) Written acknowledgement signed by both the armed employee and by a representative of the employing company that use of weapons could subject both the individual and company to U.S. and host nation prosecution and civil liability.

(5) A copy of the contract between the contractor's company and the U.S. Government that verifies the individual's employment and addresses the need to be armed.

(6) One (1) copy of a business license from the Iraqi or Afghani Ministry of Trade or Interior;

(7) One (1) copy of a license to operate as a PSC (or a temporary operating license) from the Ministry of Interior;

(d) The contractor will submit to the COR a communications plan that, at a minimum, sets forth the following:

(1) The contractor's method of notifying military forces and requesting assistance where hostilities arise, combat action is needed or serious incidents have been observed;

(2) How relevant threat information will be shared between contractor security personnel and U.S. military forces; and

(3) How the contractor will coordinate transportation with appropriate military authorities.

(e) Prior to requesting arming approval, the contractor will submit to the COR an acceptable plan for accomplishing background checks on all contractor and subcontractor employees who will be armed under the contract. The contractor shall, at a minimum, perform the following (which will be specifically addressed in its plan and which will be documented and furnished to the COR upon completion):

(1) Use one or more of the following sources when conducting the background checks: Interpol, FBI, Country of Origin Criminal Records, Country of Origin U.S. Embassy Information Request, CIA records, and/or any other records available;

(2) Verify with USF-I or USFOR-A, as applicable, that no employee has been barred by any commander within Iraq or Afghanistan; and

(3) All local nationals and third country nationals will voluntarily submit to full biometric enrollment in accordance with theater biometric policies within 60 days of their arming request. While biometric collection and screening is voluntary, CORs will immediately notify the arming approval authority of any individuals who do not meet this requirement and any arming authorization will be revoked until all requirements are met.

(f) **Penalties for Non-Compliance.** Failure of contractor or subcontractor employee(s) to comply with the laws, regulations, orders, and rules (including those specified herein) governing the use of force, training, arming authorization, and incident reporting requirements may result in the revocation of weapons authorization for such employee(s). Where appropriate, such failure may also result in the total revocation of weapons authorization for the contractor (or subcontractor) and sanctions under the contract, including termination.

(g) **Criminal and Civil Liability.** Arming of contractor or subcontractor employees under this contract may subject the contractor, its subcontractors, and persons employed by the same, to the civil and criminal jurisdiction of the U.S. and Host Nation. "Host Nation" refers to the nation or nations where services under this contract are performed.

(h) ***Lapses in Training or Authorization.*** Failure to successfully retrain an employee who has been properly authorized to be armed under this contract within twelve (12) months of the last training date will constitute a lapse in the employee's authorization to possess and carry the weapon. All unauthorized employees will immediately surrender their weapon and authorization letter to the contractor and will remain unarmed until such time as they are retrained and newly approved by the arming authority. Additionally, the arming authority's authorization letter is valid for a maximum of twelve (12) months from the date of the prior letter (unless authorization is earlier invalidated by a lapse in training).

(i) ***Authorized Weapon & Ammunition Types.*** Unless DCDRUSCENTCOM (or a designee) expressly provides otherwise, all arming requests and authorizations for contractor or subcontractor employees under this contract shall be limited to U.S. Government-approved weapons and ammunition. Notwithstanding Host Nation laws or regulations that would allow use of heavier weapons by contract security/PSC, all DoD security service / PSC contractors must have weapons approved by DCDRUSCENTCOM (or a designee) before use. This restriction applies to all weapons in the possession of contractor employees, even if such weapons are required for personal protection. The following weapons and ammunition are currently authorized by the U.S. Government for use in Iraq and Afghanistan:

- (1) The M9, M4, M16, or equivalent (e.g. .45 CAL, AK-47).
- (2) The M9 or equivalent sidearm will be the standard personal protection weapon unless other weapons are specifically requested and approved.
- (3) U.S. government Ball ammunition is the standard approved ammunition.

(j) ***Requirements for Individual Weapons Possession.*** All employees of the contractor and its subcontractors at all tiers who are authorized to be armed under this contract must:

- (1) Possess only those U.S. Government-approved weapons and ammunition for which they are qualified under the training requirements of section (c) and subsequently authorized to carry;
- (2) Carry weapons only when on duty or at a specific post (according to their authorization);
- (3) Not conceal any weapons, unless specifically authorized;
- (4) Carry proof of authorization to be armed. Employees not possessing such proof will be deemed unauthorized and must surrender their weapon to their employer; and
- (5) IAW USCENCOM G.O. #1, consumption of alcohol in Iraq or Afghanistan is prohibited. In the event of a suspension or an exception to G.O. #1, employees shall not consume any alcoholic beverage while armed or within eight (8) hours of the next work period when they will be armed. There are no circumstances under which a person will be authorized to consume any alcoholic beverage when armed for personal protection.

(k) ***Weapons/Equipment Restrictions and Responsibilities.*** Unless otherwise provided, the U.S. Government will not provide any weapons or ammunition to contractors, their subcontractors, or any employees of the same. The Contractor will provide all weapons and ammunition to those employees that will be armed under the contract. The contractor and its subcontractors at all tiers will also provide interceptor body armor, ballistic helmets, and the Nuclear, Biological, and Chemical (NBC) protective masks to those employees that require such equipment in the performance of their duties.

(l) ***Rules for the Use of Force (RUF).*** In addition to the RUF and ROE training referenced in paragraph (c), the contractor and its subcontractors at all tiers will monitor and report all activities of its armed employees that may violate the RUF and/or otherwise trigger reporting requirements as serious incidents. Prompt reporting demonstrates a desire by the contractor and its subcontractors to minimize the impact of any violations and, therefore, will be given favorable consideration. Violations of the RUF include, though are not limited to:

- (1) Taking a direct part in hostilities or combat actions, other than to exercise self-defense;
 - (2) Failing to cooperate with Coalition and Host Nation forces;
 - (3) Using deadly force, other than in self-defense where there is a reasonable belief of imminent risk of death or serious bodily harm;
 - (4) Failing to use a graduated force approach;
 - (5) Failing to treat the local civilians with humanity or respect; and
 - (6) Detaining local civilians, other than in self-defense or as reflected in the contract terms.
- (m) ***Retention and Review of Records.*** The Contractor and all subcontractors at all tiers shall maintain records on weapons training, LOAC, RUF and the screening of employees for at least six (6) months following the expiration (or termination) of the contract. The Contractor and its subcontractors at all tiers shall make these records available to the Contracting Officer or designated representative, at no additional cost to the government, within 72 hours of a request.
- (n) ***Contractor Vehicles.*** Vehicles used by contractor and subcontractor personnel in the course of their security duties shall not be painted or marked to resemble U.S./Coalition or host nation military and police force vehicles.
- (o) ***Quarterly Reporting.*** The prime contractor will report quarterly (i.e. NLT 1 January, 1 April, 1 July and 1 October for each quarter of the calendar year) to the Contracting Officer responsible for this contract, and any other organization designated by the Contracting Officer, the following information under this contract:
- (1) The total number of armed civilians and contractors;
 - (2) The names and contact information of its subcontractors at all tiers; and
 - (3) A general assessment of the threat conditions, adequacy of force numbers, and any problems that might require a change to force levels. Note: this information is in addition to the information the contractor promises to immediately provide under the communications plan referenced at paragraph (d).
- (End)

JCC-I/A CLAUSE 952.225-0002

ARMED PERSONNEL INCIDENT REPORTS (JAN 2010)

- (a) All contractors and subcontractors in the United States Forces-Iraq (USF-I) or United States Forces-Afghanistan (USFOR-A) theater of operations shall comply with and shall ensure that their personnel supporting USF-I or USFOR-A forces are familiar with and comply with all applicable orders, directives, and instructions issued by the respective USF-I or USFOR-A Commanders relating to force protection and safety.
- (b) ***IRAQ:*** Contractors shall provide all incidents and use of weapons firing incidents to the USF-I Contractor Operations Cell (CONOC) as soon as practical, based upon the situation, and submit a written report to CONOC within 4 hours. The initial report shall include the name of the company, location of the incident, time when the incident occurred, a brief description of the events leading up to the incident, and a company point of contact. A follow-up, comprehensive written report shall be provided to the CONOC within 96 hours of the incident. Reports shall be submitted to CONOC at: mncic3conoc@iraq.centcom.mil; DSN 318-435-2369; Iraqna 0044 203 286 9851 or 0044 203 239 5894; or Skype: MNCICONOC.

(c) **AFGHANISTAN**: Contractors shall immediately report all incidents and use of weapons through their Contracting Officers Representative (CORs) who will notify the Contracting Officer. Contracting Officers are responsible to notify the PARC-A Chief of Operations and the JOC @ USFOR-A (JOC SHIFT DIRECTOR, DSN: 318-237-1761). Information should include: the name of the company, where the incident occurred, time when the incident occurred, a brief description of the events leading up to the incident, and a point of contact for the company. The PARC-A Chief of Operations in coordination with the JOC will issue guidance for further reporting requirements.

(d) Contractors shall provide first aid and request MEDEVAC of injured persons, and remain available for U.S. or Coalition response forces, based upon the situation. In the event contractor personnel are detained by U.S. or Coalition Forces, prolonged detention due to lack of proper identification can be alleviated by contractor personnel possessing on their person information that includes the contractor's name, the contract number, a contractor management POC, and the phone number of the CONOC/JOC Watch.

(End)

952.225-0003 FITNESS FOR DUTY AND MEDICAL/DENTAL CARE LIMITATIONS (JUL 2010)

(a) The contractor shall perform the requirements of this contract notwithstanding the fitness for duty of deployed employees, the provisions for care offered under this section, and redeployment of individuals determined to be unfit. Contractor personnel who deploy for multiple tours, for more than 12 months total must be re-evaluated for fitness to deploy. An examination will remain valid for 15 months from the date of the physical. The contractor bears the responsibility for ensuring all employees are aware of the conditions and medical treatment available at the performance location. The contractor shall include this information and requirement in all subcontracts with performance in the theater of operations.

(b) The contractor shall not deploy an individual with any of the following conditions unless approved by the appropriate CENTCOM Service Component (ie. ARCENT, AFCENT, etc.) Surgeon: Conditions which prevent the wear of personal protective equipment, including protective mask, ballistic helmet, body armor, and chemical/biological protective garments; conditions which prohibit required theater immunizations or medications; conditions or current medical treatment or medications that contraindicate or preclude the use of chemical and biological protective's and antidotes; diabetes mellitus, Type I or II, on pharmacological therapy; symptomatic coronary artery disease, or with myocardial infarction within one year prior to deployment, or within six months of coronary artery bypass graft, coronary artery angioplasty, or stenting; morbid obesity (BMI \geq 40%); dysrhythmias or arrhythmias, either symptomatic or requiring medical or electrophysiological control; uncontrolled hypertension, current heart failure, or automatic implantable defibrillator; therapeutic anticoagulation; malignancy, newly diagnosed or under current treatment, or recently diagnosed/treated and requiring frequent subspecialist surveillance, examination, and/or laboratory testing; dental or oral conditions requiring or likely to require urgent dental care within six months' time, active orthodontic care, conditions requiring prosthodontic care, conditions with immediate restorative dentistry needs, conditions with a current requirement for oral-maxillofacial surgery; new onset (< 1 year) seizure disorder, or seizure within one year prior to deployment; history of heat stroke; Meniere's Disease or other vertiginous/motion sickness disorder, unless well controlled on medications available in theater; recurrent syncope, ataxias, new diagnosis (< 1 year) of mood disorder, thought disorder, anxiety, somatoform, or dissociative disorder, or personality disorder with mood or thought manifestations; unrepaired hernia; tracheostomy or aphonia; renalithiasis, current; active tuberculosis; pregnancy; unclosed surgical defect, such as external fixator placement; requirement for medical devices using AC power; HIV antibody positivity; psychotic and bipolar disorders. (Reference: Mod 10 to USCENTCOM Individual Protection and Individual/Unit Deployment Policy, Annex Q to USF-I OPOD 10-01, FRAGO 897 to CJTF-82 OPOD 07-03, PPG-Tab A: Amplification of the Minimal Standards of Fitness for Deployment to the CENTCOM AOR).

(c) In accordance with military directives (DoDI 3020.41, DoDI 6000.11, CFC FRAGO 09-1038, DoD PGI 225.74), resuscitative care, stabilization, hospitalization at Level III (emergency) military treatment facilities and assistance with patient movement in emergencies where loss of life, limb or eyesight could occur will be provided. Hospitalization will be limited to emergency stabilization and short-term medical treatment with an emphasis on

return to duty or placement in the patient movement system. Subject to availability at the time of need, a medical treatment facility may provide reimbursable treatment for emergency medical or dental care such as broken bones, lacerations, broken teeth or lost fillings.

(d) Routine and primary medical care is not authorized. Pharmaceutical services are not authorized for routine or known, routine prescription drug needs of the individual. Routine dental care, examinations and cleanings are not authorized.

(e) Notwithstanding any other provision of the contract, the contractor shall be liable for any and all medically-related services or transportation rendered. To view reimbursement rates that will be charged for services at all DoD deployed medical facilities please go to the following website: <http://comptroller.defense.gov/rates/fy2010.html> (change fiscal year as applicable).

(End)

JCC-I/A CLAUSE 952.225-0004

COMPLIANCE WITH LAWS AND REGULATIONS (JAN 2010)

(a) The Contractor shall comply with, and shall ensure that its employees and its subcontractors and their employees, at all tiers, are aware of and obey all U.S. and Host Nation laws, Federal or DoD regulations, and Central Command orders and directives applicable to personnel in Iraq and Afghanistan, including but not limited to USCENTCOM, Multi-National Force and Multi-National Corps operations and fragmentary orders, instructions, policies and directives.

(b) Contractor employees shall particularly note all laws, regulations, policies, and orders restricting authority to carry firearms, rules for the use of force, and prohibiting sexual or aggravated assault. Contractor employees are subject to General Orders Number 1, as modified from time to time, including without limitation, their prohibition on privately owned firearms, alcohol, drugs, war souvenirs, pornography and photographing detainees, human casualties or military security measures.

(c) Contractor employees may be ordered removed from secure military installations or the theater of operations by order of the senior military commander of the battle space for acts that disrupt good order and discipline or violate applicable laws, regulations, orders, instructions, policies, or directives. Contractors shall immediately comply with any such order to remove its contractor employee.

(d) Contractor employees performing in the USCENTCOM Area of Responsibility (AOR) may be subject to the jurisdiction of overlapping criminal codes, including, but not limited to, the Military Extraterritorial Jurisdiction Act (18 U.S.C. Sec. 3261, et al) (MEJA), the Uniform Code of Military Justice (10 U.S.C. Sec. 801, et al)(UCMJ), and the laws of the Host Nation. Non-US citizens may also be subject to the laws of their home country while performing in the USCENTCOM AOR. Contractor employee status in these overlapping criminal jurisdictions may be modified from time to time by the United States, the Host Nation, or by applicable status of forces agreements.

(e) Under MEJA, a person who engages in felony misconduct outside the United States while employed by or accompanying the Armed Forces is subject to arrest, removal and prosecution in United States federal courts. Under the UCMJ, a person serving with or accompanying the Armed Forces in the field during a declared war or contingency operation may be disciplined for a criminal offense, including by referral of charges to a General Court Martial. Contractor employees may be ordered into confinement or placed under conditions that restrict movement within the AOR or administratively attached to a military command pending resolution of a criminal investigation.

(f) Contractors shall immediately notify military law enforcement and the Contracting Officer if they suspect an employee has committed an offense. Contractors shall take any and all reasonable and necessary measures to secure the presence of an employee suspected of a serious felony offense. Contractors shall not knowingly facilitate the

departure of an employee suspected of a serious felony offense or violating the Rules for the Use of Force to depart Iraq or Afghanistan without approval from the senior U.S. commander in the country.

(End)

JCC-I/A CLAUSE 952.225-0005

MONTHLY CONTRACTOR CENSUS REPORTING (MAR 2009)

Contractor shall provide monthly employee census information to the Contracting Officer, by province, for this contract. Information shall be submitted either electronically or by hard-copy. Information shall be current as of the 25th day of each month and received by the Contracting Officer no later than the first day of the following month. The following information shall be provided for each province in which work was performed:

- (1) The total number (prime and subcontractors at all tiers) employees.
- (2) The total number (prime and subcontractors at all tiers) of U.S. citizens.
- (3) The total number (prime and subcontractors at all tiers) of local nationals (LN).
- (4) The total number (prime and subcontractors at all tiers) of third-country nationals (TCN).
- (5) Name of province in which the work was performed.
- (6) The names of all company employees who enter and update employee data in the Synchronized Predeployment & Operational Tracker (SPOT) IAW DFARS 252.225-7040 or DFARS DOD class deviation 2007-O0010.

(End)

JCC-I/A CLAUSE 952.225-0009

MEDICAL SCREENING AND VACCINATION REQUIREMENTS FOR LOCALLY HIRED EMPLOYEES (JAN 2010)

(a) Contractors, and subcontractors at any tier shall ensure and provide satisfactory evidence that all locally hired employees, including Local National (LN), Third Country National, and U.S. employees, working on military have been screened for and do not currently have active tuberculosis (TB).

- (1) Contractors may utilize a testing method of either a chest x-ray or TB skin test (TST).
 - (i) Chest x-rays shall be taken and TSTs administered within 90 days prior to the start of employment.
 - (ii) Screening may be performed either by a licensed medical provider from the local economy or by contractors' licensed medical staffs. Contractors shall maintain medical screening documentation and make it available to the Contracting Officer upon request.
- (2) TB screening documentation shall be provided to the responsible Base Defense Operations Center (BDOC) prior to issuance of base access badges.
- (b) Contractor employees, including subcontractors at any tier, who work in positions where they are working with food or water production and distribution, shall have current Typhoid and Hepatitis "A" (full series) vaccinations, in addition to the TB tests required above.

(c) At least the first inoculation in the Hepatitis “A” series must be given prior to the start of employment, with continuation and completion of the inoculation series. Once the complete Hepatitis “A” vaccination series is completed, it does not have to be repeated.

(1) The Typhoid inoculation must be completed within two years prior to the date of employment in the food and water service capacity. The Typhoid vaccination requires a booster immunization every three years.

(2) Proof of individual employee vaccinations shall be provided to the Contracting Officer and COR proof that their employees and their subcontractor (at any tier) employees have received the above vaccinations. The contractor shall maintain their employees’ vaccination records for examination by the Contracting Officer. The contractor shall ensure that their subcontractors at any tier maintain their respective employees’ vaccination records for examination by the Contracting Officer.

(End)

JCC-I/A CLAUSE 952.225-0011

GOVERNMENT FURNISHED CONTRACTOR SUPPORT (APR 2010)

The following is a summary of the type of support the Government will provide the contractor, on an “as-available” basis. In the event of any discrepancy between this summary and the description of services in the Statement of Work, this clause will take precedence.

U.S. Citizens Accompanying the Force

- | | | |
|---|---|---|
| <input type="checkbox"/> APO/FPO/MPO/Postal Services | <input type="checkbox"/> DFACs | <input type="checkbox"/> Mil Issue Equip |
| <input type="checkbox"/> Authorized Weapon | <input type="checkbox"/> Excess Baggage | <input type="checkbox"/> MILAIR |
| <input type="checkbox"/> Billeting | <input type="checkbox"/> Fuel Authorized | <input type="checkbox"/> MWR |
| <input type="checkbox"/> CAAF | <input type="checkbox"/> Govt Furnished Meals | <input type="checkbox"/> Resuscitative Care |
| <input type="checkbox"/> Controlled Access Card (CAC)/ID Card | <input type="checkbox"/> Military Banking | <input type="checkbox"/> Transportation |
| <input type="checkbox"/> Commissary | <input type="checkbox"/> Military Clothing | <input type="checkbox"/> All |
| <input type="checkbox"/> Dependents Authorized | <input type="checkbox"/> Military Exchange | <input type="checkbox"/> None |

Third-Country National (TCN) Employees

- | | | |
|---|---|---|
| <input type="checkbox"/> APO/FPO/MPO/Postal Services | <input type="checkbox"/> DFACs | <input type="checkbox"/> Mil Issue Equip |
| <input type="checkbox"/> Authorized Weapon | <input type="checkbox"/> Excess Baggage | <input type="checkbox"/> MILAIR |
| <input type="checkbox"/> Billeting | <input type="checkbox"/> Fuel Authorized | <input type="checkbox"/> MWR |
| <input type="checkbox"/> CAAF | <input type="checkbox"/> Govt Furnished Meals | <input type="checkbox"/> Resuscitative Care |
| <input type="checkbox"/> Controlled Access Card (CAC)/ID Card | <input type="checkbox"/> Military Banking | <input type="checkbox"/> Transportation |
| <input type="checkbox"/> Commissary | <input type="checkbox"/> Military Clothing | <input type="checkbox"/> All |
| <input type="checkbox"/> Dependents Authorized | <input type="checkbox"/> Military Exchange | <input type="checkbox"/> None |

Local National (LN) Employees

- | | | |
|---|---|---|
| <input type="checkbox"/> APO/FPO/MPO/Postal Services | <input type="checkbox"/> DFACs | <input type="checkbox"/> Mil Issue Equip |
| <input type="checkbox"/> Authorized Weapon | <input type="checkbox"/> Excess Baggage | <input type="checkbox"/> MILAIR |
| <input type="checkbox"/> Billeting | <input type="checkbox"/> Fuel Authorized | <input type="checkbox"/> MWR |
| <input type="checkbox"/> CAAF | <input type="checkbox"/> Govt Furnished Meals | <input type="checkbox"/> Resuscitative Care |
| <input type="checkbox"/> Controlled Access Card (CAC)/ID Card | <input type="checkbox"/> Military Banking | <input type="checkbox"/> Transportation |

☐ Commissary
☐ Dependents Authorized

☐ Military Clothing
☐ Military Exchange

☐ All
☐ None

WILL BE COMPLETED AT TIME OF TASK ORDER

(End)

JCC-I/A CLAUSE 952.225-0013

CONTRACTOR HEALTH AND SAFETY (FEB 2010)

(a) Contractors shall comply with all National Electrical Code (NEC 2008), Specifications as outlined, and MIL Standards and Regulations. All infrastructure to include, but not limited to, living quarters, showers, and restrooms shall be installed and maintained in compliance with these standards and must be properly supported and staffed to ensure perpetual Code compliance, prevent hazards and to quickly correct any hazards to maximize safety of those who use or work at the infrastructure (NEC Table 352.20). Specifically, the use of magnetic ballasts in lighting for new construction or replacement of existing magnetic ballasts during refurbishment, alterations or upgrades with new magnetic ballasts is prohibited. The government has the authority to enter and inspect contractor employee living quarters at any time to ensure the prime contractor is complying with safety compliance standards outlined in the 2008 National Electric Code (NEC).

(b) The contractor shall correct all deficiencies within a reasonable amount of time of contractor becoming aware of the deficiency either by notice from the government or a third party, or discovery by the contractor. Further guidance on mandatory compliance with NFPA 70: NEC 2008 can be found on the following link <http://www.nfpa.org>.

(End)

JCC-I/A CLAUSE 952.236-0001

ELECTRICAL AND STRUCTURAL BUILDING STANDARDS FOR CONSTRUCTION PROJECTS (FEB 2010)

(a) The standards set forth herein are the minimum requirements for the contract. These standards must be followed unless a more stringent standard is specifically included. In such case the most stringent standard shall be required for contract acceptance.

(b) The contractor, in coordination with the Contracting Officer, Base Camp Mayor, Base/Unit Engineers, and requiring activity shall evaluate, upgrade, build, and/or refurbish buildings to a safe and livable condition. This work may include refurbishment, construction, alterations, and upgrades. All work shall be in accordance with accepted standards of quality.

(c) As dictated by the Unified Facilities Criteria (UFC) the contract shall meet:

- (1) "The minimum requirements of United States' National Fire Protection Association (NFPA) 70,
- (2) 2008 National Electrical Code (NEC),
- (3) American National Standards Institute (ANSI) C2, and
- (4) United States' National Electrical Safety Code (NESC).

(d) These standards must be met when it is reasonable to do so with available materials. When conditions dictate deviation, then provisions within the International Electrical Code (IEC) or British Standard (BS 7671) shall be followed. Any deviations from the above necessary to reflect market conditions, shall receive prior written approval from a qualified engineer and the Contracting Officer.

(e) The use of magnetic ballasts in lighting for new construction or replacement of existing magnetic ballasts during refurbishment, alterations, or upgrades with new magnetic ballasts is prohibited.

(f) The following internet links provide access to some of these standards:

UFC: http://65.204.17.188/report/doc_ufc.html

NFPA 70: <http://www.nfpa.org>

NESC: <http://www.standards.ieee.org/nesc>

(End)

4.0 OTHER

It is expected that the MATOC will be awarded to several contractors as a result of this solicitation. As individual projects are identified, they will generally be communicated to all of the MATOC contract holders via RFPs. MATOC contract holders would then provide a short proposal to the Government for each RFP, and the Government will award each project as a Task Order to the MATOC using a condensed evaluation process, considering price as a higher priority over other evaluation factors. The winning offerors will be required to provide no later than 15 calendar days after notice of task order award performance and payment surety for up to 100% of the Task Order amount. It is anticipated that Task Orders of various values will be awarded, with the majority in the \$ 20 million to \$ 100 million range. Any task order awardee which fails to provide acceptable performance and payment surety within 15 calendar days after notice of task order award may be determined not responsible and the task order award may be terminated and awarded to another MATOC awardee. Task Orders will be awarded as firm fixed price (FFP) Task Orders; no Cost-type Task Orders will be part of this MATOC. These MATOCs will be awarded as a base of two years with three one year option periods.

Section 01 10 00 - Statement of Work

SCOPE OF WORK

PART 1 GENERAL

1. CONTRACT DESCRIPTION

This Scope of Work is for a Multiple Award Task Order Contract (MATOC) in support of a full range of Design-Build and Construction requirements for US Military Forces, other US Government Organizations, and friendly Foreign Governments, in various locations throughout the US Central Command (CENTCOM) area of operations. This area of operations includes the following countries: Egypt, Syria, Jordan, Lebanon, Yemen, Saudi Arabia, Iraq, Iran, Kuwait, Bahrain, Qatar, United Arab Emirates, Oman, Pakistan, Afghanistan, Kyrgyzstan, Turkmenistan, Tajikistan, Uzbekistan, and Kazakhstan.

2. TYPES OF FACILITIES

This MATOC will provide the US Government with a contract vehicle to award Design-Build or Construction Task Orders for a wide variety of project types, including the new construction or renovation of:

- ☐ Housing/Barracks
- ☐ Dining Facility
- ☐ Equipment/Vehicle Maintenance Facility
- ☐ Operations Facility
- ☐ Administrative/Headquarters Facility
- ☐ Command and Control Facility
- ☐ Communications Center
- ☐ Fire Station
- ☐ Waste Management Complex
- ☐ Training Facility
- ☐ Medical Facility (Clinic/Hospital)
- ☐ Fuel Storage Facility
- ☐ Fuel Distribution and Storage System
- ☐ Munitions Storage
- ☐ Power Plant
- ☐ Utilities Infrastructure
- ☐ Reception, Staging, and Onward Integration Facilities/Areas
- ☐ Entry/Access Control Points
- ☐ Cargo Handling Areas
- ☐ Perimeter Fence and Guard Towers
- ☐ Road Construction
- ☐ Airfields (Runways/Taxiways/Aprons/Ramps)
- ☐ Airfield Support Facilities (Hangars/Control Towers/etc.)
- ☐ Passenger/Cargo Terminals
- ☐ Drainage System Projects
- ☐ Water Treatment Facility

3. TASK ORDERS

The work performed under this MATOC shall consist of providing all facilities, plans, labor, transportation, materials, equipment, and the performance of all work necessary to construct the project, including incidental design in the case of Design-Build Task Orders. Each Task Order's Request For Proposal (RFP) will include the details of the requirements. Some Task Orders will include the construction of "turn-key" facilities, where the Task Order could include facilities construction and furnishings, fixtures and equipment (as described in the respective Task Order RFP). Some Task Orders could include Contractor provided Operations and

Maintenance for a limited time after completion of the constructed facilities (as described in the respective Task Order RFP).

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SECTION 00 31 10

METRIC MEASUREMENTS

PART 1 GENERAL

1.1 REFERENCES

The publications listed below form a part of this specification to the extent referenced. The publications are referred to within the text by the basic designation only.

ASTM INTERNATIONAL (ASTM)

| | |
|-----------------|--|
| ASTM E 621 | (1994e1; R 1999) Use of Metric (SI) Units in Building Design and Construction (Committee E-6 Supplement to E380) |
| IEEE/ASTM SI 10 | (2002) American National Standard for Use of the International System of Units (SI): The Modern Metric System |

1.2 GENERAL

This project includes metric units of measurements. The metric units used are the International System of Units (SI) developed and maintained by the General Conference on Weights and Measures (CGPM); the name International System of Units and the international abbreviation SI were adopted by the 11th CGPM in 1960. A number of circumstances require that both metric SI units and English inch-pound (I-P) units be included in a section of the specifications. When both metric and I-P measurements are included, the section may contain measurements for products that are manufactured to I-P dimensions and then expressed in mathematically converted metric value (soft metric) or, it may contain measurements for products that are manufactured to an industry recognized rounded metric (hard metric) dimensions but are allowed to be substituted by I-P products to comply with the law. Dual measurements are also included to indicate industry and/or Government standards, test values or other controlling factors, such as the code requirements where I-P values are needed for clarity or to trace back to the referenced standards, test values or codes.

1.3 USE OF MEASUREMENTS IN SPECIFICATIONS

Measurements in specifications shall be either in SI or I-P units as indicated, except for soft metric measurements or as otherwise authorized. When only SI or I-P measurements are specified for a product, the product shall be procured in the specified units (SI or I-P) unless otherwise authorized by the Contracting Officer. The Contractor shall be responsible for all associated labor and materials when authorized to substitute one system of units for another and for the final assembly and performance of the specified work and/or products.

1.3.1 Hard Metric

A hard metric measurement is indicated by an SI value with no expressed

correlation to an I-P value. Hard metric measurements are often used for field data such as distance from one point to another or distance above the floor. Products are considered to be hard metric when they are manufactured to metric dimensions or have an industry recognized metric designation.

1.3.2 Soft Metric

- a. A soft metric measurement is indicated by an SI value which is a mathematical conversion of the I-P value shown in parentheses (e.g. 38.1 mm (1-1/2 inches)). Soft metric measurements are used for measurements pertaining to products, test values, and other situations where the I-P units are the standard for manufacture, verification, or other controlling factor. The I-P value shall govern while the metric measurement is provided for information.
- b. A soft metric measurement is also indicated for products that are manufactured in industry designated metric dimensions but are required by law to allow substitute I-P products. These measurements are indicated by a manufacturing hard metric product dimension followed by the substitute I-P equivalent value in parentheses (e.g., 190 x 190 x 390 mm (7-5/8 x 7-5/8 x 15-5/8 inches)).

1.3.3 Neutral

A neutral measurement is indicated by an identifier which has no expressed relation to either an SI or an I-P value (e.g., American Wire Gage (AWG) which indicates thickness but in itself is neither SI nor I-P).

1.4 COORDINATION

Discrepancies, such as mismatches or product unavailability, arising from use of both metric and non-metric measurements and discrepancies between the measurements in the specifications and the measurements in the drawings shall be brought to the attention of the Contracting Officer for resolution.

1.5 RELATIONSHIP TO SUBMITTALS

Submittals for Government approval or for information only shall cover the SI or I-P products actually being furnished for the project. The Contractor shall submit the required drawings and calculations in the same units used in the contract documents describing the product or requirement unless otherwise instructed or approved. The Contractor shall use [IEEE/ASTM SI 10](#) and [ASTM E 621](#) as the basis for establishing metric measurements required to be used in submittals.

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SCOPE OF WORK

PART 1 GENERAL

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- Command and Control Facility
- Communications Center
- Fire Station
- Waste Management Complex
- Training Facility
- Medical Facility (Clinic/Hospital)
- Fuel Storage Facility
- Fuel Distribution and Storage System
- Munitions Storage
- Power Plant
- Utilities Infrastructure
- Reception, Staging, and Onward Integration Facilities/Areas
- Entry/Access Control Points
- Cargo Handling Areas
- Perimeter Fence and Guard Towers
- Road Construction
- Airfields (Runways/Taxiways/Aprons/Ramps)
- Airfield Support Facilities (Hangars/Control Towers/etc.)
- Passenger/Cargo Terminals
- Drainage System Projects
- Water Treatment Facility

1.3 TASK ORDERS

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Order's Request For Proposal (RFP) will include the details of the requirements. Some Task Orders will include the construction of "turn-key" facilities, where the Task Order could include facilities construction and furnishings, fixtures and equipment (as described in the respective Task Order RFP). Some Task Orders could include Contractor provided Operations and Maintenance for a limited time after completion of the constructed facilities (as described in the respective Task Order RFP).

1.4 OTHER

It is expected that the MATOC will be awarded to several contractors as a result of this solicitation. As individual projects are identified, they will generally be communicated to all of the MATOC contract holders via RFPs. MATOC contract holders would then provide a short proposal to the Government for each RFP, and the Government will award each project as a Task Order to the MATOC using a condensed evaluation process, considering price as a higher priority over other evaluation factors. It is anticipated that Task Orders of various values will be awarded, with the majority in the \$ 20 and \$ 100 million range. Task Orders will be awarded as firm fixed price (FFP) Task Orders; no Cost-type Task Orders will be part of this MATOC. These MATOCs will be awarded as a base period of two years with three one year option periods.

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SPECIAL CLAUSES

PART 1 GENERAL

1.1 PRECONSTRUCTION CONFERENCE

1.1.1 Schedule of Meeting

At the earliest practicable time, prior to commencement of the work, the Contractor and any Subcontractors whose presence is necessary or requested, shall meet in conference with representatives of the Contracting Officer to discuss and develop a mutual understanding relative to the details of the administration and execution of this contract. This will include but not necessarily be limited to the Contractor's Quality Control (CQC) Program, the Contractors Accident Prevention Program, submittals, [correspondence], [schedule], [access to the work site], [security requirements], [interface requirements], [temporary facilities and services], [hazards and risks], [working after normal hours or on weekends or holidays], [assignment of inspectors], [representations], [special requirements], [phasing], [_____] and other aspects of this project that warrant clarification and understanding.

1.1.2 Meeting Minutes

It shall be the responsibility of the Contractors CQC System Manager to prepare detailed minutes of this meeting and submit same to the Contracting Officer for approval within three (3) work days. Any corrections deemed necessary by the Contracting Officer shall be incorporated and resubmitted within two (2) calendar days after receipt. Upon approval of the minutes by the Contracting Officer, the Contractor shall distribute the minutes to all parties present or concerned.

1.2 AREA USE PLAN

The Contractor shall submit to the Contracting Officer, within [twenty (20)] [_____] calendar days after Notice to Proceed, an Area Use Plan designating intended use of all areas within the project boundaries. This plan shall include, but not necessarily be limited to the following: the proposed location and dimensions of any area to be fenced and used by the Contractor; construction plant and building installations/the number of trailers and facilities to be used; avenues of ingress/egress to the fenced areas and details of the fence installation; drawings showing temporary electrical installations; temporary water and sewage disposal installations; material storage areas; hazardous storage areas. Any areas which may have to be graveled shall also be identified. The plan shall also include a narrative description of the building structural system, the site utility system; and the office or administration facilities. The Contractor shall also indicate if the use of a supplemental or other staging area is desired. The Contractor shall not begin construction of the mobilization facilities prior to approval by the Contracting Officer of the Area Use Plan described herein.

1.3 CONTRACTOR'S MOBILIZATION AREA

The Contractor will be permitted to use the area designated on Drawing C-[] within the contract limits for operation of his construction equipment and plants, shops, warehouses, and offices. The Contractor shall not be authorized to have living accommodations for his work force on the site. The Contractor is responsible for obtaining any required additional mobilization area above that designated. On completion of the contract, all facilities shall be removed from the mobilization area by the Contractor and shall be disposed of in accordance with applicable Host Government Laws and Regulations. The site shall be cleared of construction debris and other materials and the area restored to its final grade.

1.3.1 Contractor's Temporary Facilities

1.3.1.1 General

All facilities within the Contractor's mobilization area shall be of substantial construction suitable for the local weather conditions. Sanitary facilities shall meet the requirements of Corps of Engineers, Safety and Health Requirements Manual EM 385-1-1.

1.3.1.2 Administrative Field Offices

The Contractor may provide and maintain administrative field office facilities within the mobilization area at the designated site. Government office and warehouse facilities will not be available to the Contractor's personnel.

1.3.1.3 Storage Area

The Contractor shall construct a temporary 1.8 meter high chain link fence around trailers and materials. The fence shall include plastic strip inserts, colored green or brown, so that visibility through the fence is obstructed. Fence posts may be driven, in lieu of concrete bases, where soil conditions permit. Trailers, materials, or equipment shall not be placed or stored outside the fenced area unless approved in writing by the Contracting Officer.

1.3.1.4 Plant Communication

Whenever the Contractor has the individual elements of its plant so located that operation by normal voice between these elements is not satisfactory, the Contractor shall install a satisfactory means of communication, such as telephone or other suitable devices. The devices shall be made available for use by Government personnel.

1.3.1.5 Appearance of Mobilization Site Facilities and/or Trailers

Mobilization Site Facilities and/or Trailers utilized by the Contractor for administrative or material storage purposes shall present a clean and neat exterior appearance and shall be in a state of good repair. Trailers or other transportable structures which, in the opinion of the Contracting Officer, require exterior painting or maintenance will not be allowed on the [military property] [construction site] until such work or maintenance has been performed to the satisfaction of the Contracting Officer.

1.3.1.6 Maintenance of Storage Area

Fencing shall be kept in a state of good repair and proper alignment. Should the Contractor elect to traverse with construction equipment or other vehicles unpaved areas which are not established roadways, such areas shall be covered with a layer of gravel as necessary to prevent rutting and the tracking of soil onto paved or established roadways; gravel gradation shall be at the Contractor's discretion.

1.3.1.7 Security Provisions

Adequate outside security lighting shall be provided at the Contractor's temporary facilities. The Contractor shall be responsible for the security of its own facilities and equipment.

1.3.1.8 Sanitation

- a. Sanitary Facilities: The Contractor shall provide and maintain within the construction area minimum field-type sanitary facilities in accordance with the requirements of EM 385-1-1 Safety and Health Requirements Manual and approved by the Contracting Officer. Government toilet facilities will not be available to Contractor's personnel.
- b. Trash Disposal: The Contractor shall be responsible for collection and disposal of trash from the work areas and from the mobilization area. All trash shall be disposed of off base in accordance with Host Nation requirements. Construction debris, waste materials, packaging material and the like shall be removed from the work site daily. Loose debris capable of being windblown, shall be immediately placed in sealed or covered containers to prevent it from being blown onto taxiways or runways. Any dirt or soil which is tracked onto paved or surfaced roadways shall be cleaned daily. Materials resulting from demolition activities which are salvageable shall be stored within the fenced area described above. Stored material not indoors, whether new or salvaged, shall be neatly stacked when stored.

1.3.1.9 Telephone

The Contractor shall make arrangements to install and pay all costs for telephone facilities desired.

1.3.1.10 Restoration of Storage Area

Upon completion of the project and after removal of mobilization facilities, trailers, materials, and equipment from within the fenced area, the fence shall be removed and will become the property of the Contractor. Areas used by the Contractor for the storage of equipment or material, or other use, shall be restored to the original or better condition. Gravel used to traverse unpaved areas shall be removed and all such areas restored to their original conditions.

1.3.2 Protection and Maintenance of Traffic

During construction the Contractor shall provide access and temporary relocated roads as necessary to maintain traffic. The Contractor shall maintain and protect traffic on all affected roads during the construction period except as otherwise specifically directed by the Contracting

Officer. Measures for the protection and diversion of traffic, including the provision of watchmen and flagmen, erection of barricades, placing of lights around and in front of equipment and the work, and the erection and maintenance of adequate warning, danger, and direction signs, shall be as required by the [Host Nation] [and] [base authorities] [_____] having jurisdiction. The traveling public shall be protected from damage to person and property. The Contractor's traffic on roads selected for hauling material to and from the site shall interfere as little as possible with [Host Nation] [and] [base traffic] [_____]. The Contractor shall investigate the adequacy of existing roads and the allowable load limit on these roads. The Contractor shall be responsible for the repair of any damage to roads caused by construction operations.

1.3.2.1 Haul Roads

The Contractor shall, at its own expense, construct access and haul roads necessary for proper prosecution of the work under this contract. Haul roads shall be constructed with suitable grades and widths; sharp curves, blind corners, and dangerous cross traffic shall be avoided. The Contractor shall provide necessary lighting, signs, barricades, and distinctive markings for the safe movement of traffic. The method of dust control shall be in accordance with the Special Clause entitled DUST CONTROL. Location, grade, width, and alignment of construction and hauling roads shall be subject to approval by the Contracting Officer. Lighting shall be adequate to assure full and clear visibility for full width of haul road and work areas during any night work operations. Upon completion of the work, haul roads designated by the Contracting Officer shall be removed.

1.3.2.2 Use of Existing Roads as Haul Routes

The Contractor shall be responsible for coordinating with the [Host Nation Government] [and the] [base authorities] [_____] for use of any existing roads as haul routes. Construction, and routing of new haul roads, and/or upgrading of existing roads to carry anticipated construction traffic shall be coordinated with the [Host Nation] [and] [Base authorities] [_____] and is the sole responsibility of the Contractor.

1.3.2.3 Employee Parking

Contractor employees shall park vehicles in an area approved by the Contracting Officer. Contractor employee parking shall not interfere with existing and established parking requirements of the [military installation] [_____].

1.3.3 Temporary Project Safety Fencing and Barricades

The Contractor shall impose all measures necessary to limit public access to hazardous areas and to ensure the restriction of workers to the immediate area of the construction and mobilization site. The Contracting Officer may require in writing, that the Contractor remove from the work any employee found to be in violation of this requirement.

1.3.3.1 Barricades

Barricades shall be required whenever safe public access to paved areas such as roads, parking areas or sidewalks is prevented by construction activities or as otherwise necessary to ensure the safety of both pedestrian and vehicular traffic. Barricades shall be securely placed,

clearly visible with adequate illumination to provide sufficient visual warning of the hazard during both day and night. Travel to and from the project site shall be restricted to a route approved by the Contracting Officer.

1.3.4 Host Nation Authorizations, Permits and Licenses

It shall be the Contractor's responsibility to obtain such local authorizations, permits and licenses necessary to establish his quarry operations, batching operations and haul routes.

1.4 CONTRACTOR'S OFF BASE MOBILIZATION AREA

The Contractor shall provide, furnish, operate and maintain facilities for his batching operations (e.g. concrete, asphalt, etc.) major shops and living facilities for his workers in an area off base. The specific area must be located such that no new contractor facilities are within the "Inhabited Building Clear Zone" (approximately 1355 meters, radius) surrounding ammunition/explosives storage and/or handling areas. The Contractor must submit his desired site location to the Contracting Officer for approval. All utilities will be the responsibility of the Contractor and shall be provided at no cost to the Government. On completion of the contract, all facilities shall be removed by the Contractor and shall be disposed of in the manner directed by the Contracting Officer. The site shall be cleared of construction debris and other materials and the area restored to its original condition.

1.4.1 Facilities Within the Mobilization Site

All facilities within the Contractor's mobilization site shall be of substantial construction suitable for the local weather conditions. Housing, messing and sanitary facilities shall meet the requirements of Corps of Engineers Safety and Health Requirements Manual EM 385-1-1. The Contractor shall provide all utilities required to make the site self-sufficient.

1.4.2 Trash Disposal

The Contractor shall be responsible for collection and disposal of trash from the work areas and from the mobilization camp areas. All trash shall be segregated into two categories, organic and inorganic, and disposed of as follows: Organic trash shall be deposited in the designated sanitary landfill. The Contractor's proposed disposal methods and locations for inorganic trash shall require prior approval of the Contracting Officer.

1.4.3 Special Requirements

The Contractor shall be responsible for coordinating with the Host Government use of any existing roads as haul routes. Construction, and routing of new haul roads, and/or upgrading of existing roads for the Contractor's use, is the sole responsibility of the Contractor. It shall be the Contractor's responsibility to obtain such local authorizations, permits and licenses necessary to establish his mobilization camp, quarry operations, batching operations and haul routes.

1.5 RESPONSIBILITY FOR PHYSICAL SECURITY

Prior to mobilization, the Contractor shall submit his proposed means of providing project security to prevent unauthorized access to equipment,

facilities, materials and documents, and to safeguard them against sabotage, damage, and theft. The Contractor shall be responsible for physical security of all materials, supplies, and equipment of every description, including property which may be Government-furnished or owned, for all areas occupied jointly by the Contractor and the Government, as well as for all work performed.

1.6 PROJECT SIGN

Within [thirty (30)] [_____] calendar days after receipt of Notice to Proceed, the Contractor shall furnish and install a project sign at or adjacent to the project site where directed by the Contracting Officer. The sign shall be in the English language and [_____] language. The sign shall be constructed with a face sheet of exterior grade plywood, 4-feet high by 8-feet wide by one-half-inch thick, mounted on suitable framing which shall be approved by the Contracting Officer. All parts of frames and signs shall be given a prime coat of exterior oil base paint and a minimum of two (2) finish coats of white semi-gloss paint. The Contracting Officer will supply the Contractor with all information to be displayed on the sign, i.e. wording, letter size, pictorial display, etc. The Contractor shall maintain the sign in good condition, as determined by the Contracting Officer, throughout the project construction period. On completion of the work under this contract, the sign shall be removed by the Contractor and disposed of as directed by the Contracting Officer. No direct payment will be made for the sign.

1.7 DUST CONTROL

The Contractor shall be required to control objectional dust in the work areas, access roadways, and haul roads by means of controlled vehicle speeds or dust palliatives. Vehicles transporting sand, cement, gravel or other materials creating a dust problem shall be covered, as directed by the Contracting Officer, or in accordance with local Laws, codes, and regulations.

1.8 FOREIGN OBJECTS DAMAGE CONTROL

The Contractor shall prepare and submit to the Contracting Officer, for approval, his plan to control Foreign Objects Damage (FOD) at its mobilization site, construction site and during work on or near aircraft runways and/or taxiways. The plan shall be specific and shall describe in detail measures to be implemented to prevent deposit of foreign objects on runways and/or taxiways during construction. The Foreign Objects Damage control plan shall be submitted fifteen (15) calendar days prior to the start of any work on or near aircraft runways or taxiways. No work will be allowed near any runways or taxiways without approval of the FOD control plan by the Contracting Officer.

1.9 ENGLISH SPEAKING REPRESENTATIVE

At all times when any performance of the work at any site is being conducted by any employee of the Contractor or its subcontractors, suppliers, or vendors at any tier, the Contractor shall have a representative present at each site who has the capability of receiving instructions in the English language, fluently speaking the English language and explaining the work operations to persons performing the work in the language that those performing the work are capable of understanding. The Contracting Officer shall have the right to determine whether the proposed representative has sufficient technical and lingual

capabilities, and the Contractor shall immediately replace any individual not acceptable to the Contracting Officer.

1.10 DIGGING PERMITS

1.10.1 Requirements for Digging Permits

Prior to the start of any work activity which requires excavation within the current [base] [____], the Contractor shall obtain a digging permit.

1.10.2 Requests for Digging Permits

Requests for Digging Permits shall be submitted through the Contracting Officer to the [Base] [____] a minimum of seven (7) days prior to the start of the work activity covered by the permit. The request for a Digging Permit shall include a narrative description of the work to be performed and a detailed map of the area of the excavation clearly marking the location of all known utilities or other obstructions. If the work activity covered by the Digging Permit request also requires a utility outage, a separate request for the outage shall be submitted in accordance with the paragraph entitled CONNECTIONS TO EXISTING UTILITIES.

1.10.3 Preparation of Requests for Digging Permits

Prior to submitting a request for a Digging Permit, the Contractor shall carefully review the area to be excavated to determine the location of existing utilities and other obstructions. The Contractor will review available drawings and will conduct a visual inspection of the site. The Contractor will utilize underground utility detecting devices such as metal and cable detectors to determine the location of existing utilities. All utility lines found shall be clearly flagged or marked and the location of the utility shall be shown on the drawing to be submitted with the request for Digging Permit.

1.10.4 Existing Underground Utilities

[The Contractor is provided notice that existing utilities are present in the construction area which may not be shown, or are inaccurately shown, on the base as-built drawings and the contract drawings.] The Contractor shall exercise utmost care in researching locations of existing utilities and reducing damage to existing utilities. Any utilities damaged by the Contractor shall be promptly repaired by the Contractor. The Contracting Officer will review and approve any proposed repairs. Any damage to existing utilities will be immediately reported to the Contracting Officer and the [Base] [____].

1.11 CONNECTIONS TO EXISTING UTILITIES

1.11.1 General

Any outage of any utility service shall be requested in writing at least fifteen (15) days in advance of the date requested for the commencement of the outage. The Contractor shall provide a request, detailing the type of outage needed (water, sewer, electrical, steam, etc.), the time needed to perform the work, the reason for the outage, and the known affected facilities. The Contracting Officer shall be contacted prior to the outage to confirm the time and date. If the Contractor fails to initiate work at the approved time, the Contracting Officer may cancel the approved outage and may direct the Contractor to resubmit a new request. No part of the

time lost due to the Contractors failure to properly schedule an outage shall be made the subject of claim for extension of time or for excess costs or damages by the Contractor.

1.11.1.1 Performance of Work During Non-Standard Hours

To minimize outage impact to the mission of the [Base] [____], all outages shall be scheduled on weekends or from 2100 - 0530 hours on duty days. The period proposed for performance of the outage shall include sufficient contingencies to preclude impact to the peak working hours 0530 - 1800 hours during the work week.]

1.11.1.2 Exterior Night Lighting

Exterior night lighting shall be provided in conformance with EM-385-1-1 entitled Safety and Health Requirements Manual.

1.11.2 Existing Underground Utilities

[The Contractor is provided notice that existing utilities may be present in the construction area which may not be shown, or are inaccurately shown, on the base as-built drawings.] The Contractor shall exercise the utmost care in researching locations of existing utility lines by implementing control measures to eliminate, or reduce to a level acceptable to the Contracting Officer, the chance of damaging or destroying existing utilities.

1.11.2.1 Use of Underground Utility Detecting Device

Prior to any excavation, a metal and/or cable detecting device shall be used along the route of the excavation. All underground utilities discovered by this method will be flagged a minimum distance of ~~one-half~~ (1/2) meter on each side of the location.

1.11.2.2 Hand Excavation

Hand excavation methods and special supervisory care shall be used between any flagged markers, in areas of known or suspected hazards, and in areas known or suspected to have multiple and/or concentrated utility lines or connections.

1.11.3 Repair of Damaged Utilities

The Contractor shall be responsible to repair any utilities damaged by him. The method of repair and schedule for performance of the repair shall be coordinated with, and subject to the approval of, the Contracting Officer. The repair work and any temporary work required to keep the system operational while repairs are being completed, shall be performed at no cost to the Government.

1.12 WATER (CONTRACTOR PROVIDED)

The Contractor shall provide and maintain water at his own expense for his use for construction and domestic consumption, and shall install and maintain necessary supply connections and piping for same, but only at such locations and in such manner as may be approved by the Contracting Officer. [Water required for final testing, adjusting and balancing of HVAC systems will be furnished by the Government.] Before final acceptance of systems, or facilities, all temporary connections and piping installed by the

Contractor shall be removed at his expense in a manner satisfactory to the Contracting Officer.

1.13 WATER (GOVERNMENT PROVIDED)

The Government will make [____] gallons per day, of water available to the Contractor from existing outlets and supplies. Water usage in excess of this amount will be billed to the Contractor at a rate of [____] per thousand gallons. The Contractor shall carefully conserve all water furnished without charge. The Contractor shall install and maintain all necessary temporary connections and distribution lines at his own expense in a workmanlike manner satisfactory to the Contracting Officer. When necessary to determine charges, the Contractor shall install all meters required to measure the amount of water used, and shall remove same prior to final acceptance of the construction.

1.14 ELECTRICITY (CONTRACTOR PROVIDED)

Electrical service is not available for use under this contract, therefore all electric current required by the Contractor shall be the responsibility of the Contractor, furnished at his own expense. [Electricity required for final testing systems will be furnished by the Government.] [The Government will provide permanent high voltage electricity to a point indicated on the drawings for use by the Contractor in the performance of final testing of systems. The means of doing so, such as by temporary distribution systems, shall be the responsibility of the Contractor.] All temporary connections for electricity shall be subject to the approval of the Contracting Officer and shall comply with Corps of Engineers manual EM 385-1-1 entitled Safety and Health Requirements Manual. All temporary lines shall be furnished, installed, connected and maintained by the Contractor in a workmanlike manner satisfactory to the Contracting Officer. Before final acceptance of systems, or facilities, all temporary connections installed by the Contractor shall be removed at his expense in a manner satisfactory to the Contracting Officer.

1.15 ELECTRICITY (GOVERNMENT PROVIDED)

The Government will make electricity available to the Contractor from existing outlets and supplies, [____] KWH per day at [____] volts/cycles. The Contractor shall carefully conserve all electricity furnished without charge. Electrical usage in excess of the amount stated, will be billed to the Contractor at a rate of [____] KWH. The Contractor shall install and maintain all necessary temporary connections and distribution lines at his own expense in a workmanlike manner in compliance with Corps of Engineers manual EM 385-1-1 entitled Safety and Health Requirements Manual and with the approval of the Contracting Officer. The Contractor shall install all meters required to measure the amount of electricity used, and shall remove same prior to final acceptance of the construction.

1.16 USE OF EXPLOSIVES

The Contractor shall make necessary arrangements as may be required by applicable [_____] codes, rules, regulations and laws and shall be responsible for compliance therewith for all phases of blasting operations. When blasting is required for removal of rock or other material, the Contractor shall notify the Contracting Officer prior to application for any use of explosives and take all necessary precautions for the protection of individuals and property exposed to his operation.

1.16.1 Handling, Storage, and Use of Explosives

The handling, storage, and use of explosives shall be governed by the applicable provisions of the following: the "BLASTING" section of the Corps of Engineers Manual EM 385-1-1, entitled Safety and Health Requirements Manual, a copy of which may be obtained from the Contracting Officer's Representative at the jobsite, and Technical Section 02201 entitled BLASTING

1.16.2 Blasting Permits

The following is provided for the Contractor's information, and the Government assumes no liability for changes that may be imposed by the [] Government:

1.16.3 Ministry Letter

Based on advise received from the Ministry of Interior, a letter that provides the following information shall be furnished to the Ministry:

- a. Reason for a Blasting Permit
- b. A copy of the agreement that authorizes the project.
- c. Plans, general in nature, that show what is to be built.
- d. A well defined map of the project area and the surrounding areas that require excavation by explosives identified.
- e. Dates that blasting is to commence, cease, and phasing if applicable.
- f. Quantities of explosives and caps.
- g. Name and qualifications of Blasting Engineer/Powderman on the project.

1.16.4 Local Police

The Police of the locality will be sent a letter of approval by the Minister of Interior through the general security Office. However, coordination should commence with the local Police while the letter is being prepared for the Minister of Interior since there may be some type of local restrictions that require relief by a higher authority. Once a letter of approval is received, the local Police will subsequently issue a Blasting Permit.

1.16.5 Transportation and Guarding

Transportation and guarding of explosives will be provided by the local Police. In the Riyadh area, the contractor will transport the explosives, with Police escort, to his project.

1.16.6 Explosive Storage

If the quantity of explosives is greater than ten (10) tons, the Contractor shall be required to design and build an acceptable storage container. Approval for the design and constructed storage container must be obtained from the local Police. The distance the storage container must be located

from inhabited area shall be coordinated with and approved by the local Police but in no case shall it be less than indicated in the contract.

1.16.7 Haj

Transportation of explosives and blasting are forbidden during Haj (the Moslem pilgrimage to Mecca) by order of the Minister of Interior.

1.17 NOT USED

1.18 WORK OUTSIDE REGULAR HOURS

If the Contractor desires to carry on work outside regular [base] [_____] duty hours, or on holidays (including the following U.S. holidays: New Year's Day, Martin Luther King Jr's Birthday, George Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veteran's Day, Thanksgiving and Christmas), he shall submit an application to the Contracting Officer. The Contractor shall allow ample time to enable satisfactory arrangements to be made by the Government for inspecting the work in progress. At night, exterior lighting shall be provided in conformance with EM-385-1-1 entitled "Safety and Health Requirements Manual".

1.19 SCHEDULING OF WORK IN EXISTING FACILITIES

As soon as practicable, but in any event not later than [thirty (30)] [_____] calendar days after receipt of Notice to Proceed, the Contractor shall meet in conference with the Contracting Officer, or his duly authorized representatives, to discuss and develop mutual understanding relative to the scheduling of work in and access to the existing facilities where work has to be performed under this contract, so that the Contractor's proposed construction schedule is coordinated with the operating and security requirements of the installation.

1.20 FACILITIES TO BE FURNISHED BY THE GOVERNMENT

Facilities listed hereinafter will be furnished by the Government for the Contractor's use, on the available date listed. The Contractor shall provide all maintenance janitorial services and repair of the facilities. Upon completion of the contract or at such time as the Contractor has no further use of the facilities, each respective facility shall be repaired and painted and returned to the Government in like new condition except for normal wear and tear. There will be no separate payment made for costs in connection with the use, and maintenance and repair of these facilities. All such costs should be included in the Contractor's proposed overhead percentage or elsewhere as deemed appropriate by the contractor.

Facilities

Date(s) to be provided

1.21 IDENTIFICATION OF GOVERNMENT FURNISHED PROPERTY

The Government will furnish to the Contractor the property listed in Appendix "B", attached to these Special Clauses, to be incorporated or installed in the work or used in its performance. Such property will be furnished to the Contractor at [_____] and the Contractor shall be required to accept delivery when made, (process the items thru customs, load and transport the property to the jobsite) unload the property at the jobsite, store, and safeguard such property all at his own expense. The Contractor shall submit his proposed plan, showing type of facilities,

location for the storage, and handling procedures of Government Furnished Property for the Contracting Officer's approval, within [_____] days after Notice to Proceed. All such property will be installed or incorporated into the work at the expense of the Contractor, unless otherwise indicated herein. The Contractor shall verify jointly with a Government Representative the quality and condition of such Government Furnished Property when delivered to him, acknowledge receipt thereof in writing to the Contracting Officer, and in case of damage to or shortage of such property, he shall within seventy-two (72) hours report in writing such damage or shortage to the Contracting Officer. Any damage or shortage not so reported shall be for the account of the Contractor, unless it can be conclusively shown to have occurred as the result of a willful or negligent act or a failure to act by the Government, its employees, or its agents. The Government will make every reasonable effort to make delivery at the time scheduled in the Contractor's approved schedule developed in Section [01320] [01321] PROJECT SCHEDULE, of the General Requirements, however delivery will be no later than the number of days as shown in Appendix "B", from the time of Notice to Proceed (NTP) for the work under this contract. [Contract Clause 52.245-2 entitled GOVERNMENT PROPERTY (FIXED-PRICE CONTRACTS)] [Contract Clause 52.245-4 entitled GOVERNMENT-FURNISHED PROPERTY (SHORT FORM)] applies to this contract.

1.22 SPECIAL FACILITIES AND SERVICES TO BE FURNISHED BY THE CONTRACTOR

The Contractor shall furnish the facilities and services listed in this clause for Corps of Engineers personnel and other persons as designated by the Contracting Officer. All facilities, furnishings, materials, and equipment shall be new or like new when furnished at the site. The Contractor shall fully maintain and repair all facilities, furnishings and equipment listed below. All facilities furnished and/or installed by the Contractor under this clause shall remain the property of the [Contractor] [Government] [_____]. All costs for procuring, transporting, installing and replacing all facilities, furnishings, materials, vehicles and equipment shall be included in the contract price for "Mobilization and Demobilization", and payment will be made in accordance with Mobilization and Demobilization payment item of the Proposal Schedule.

(Add facilities, list of services and date to be provided)

1.23 NOT USED

1.24 RESIDENT MANAGEMENT SYSTEM (RMS)

1.24.1 General

The Resident Management System is an automated quality management and contract administration system that provides an efficient method to plan, accomplish, and control project management by integrating job specific requirements, corporate technical knowledge, and management policies. RMS controls the following activities:

- a. Project Planning.
- b. Milestone Events.
- c. Contract Administration.
- d. Progress Payments.

- e. Correspondence.
- f. Contract Schedule.
- g. Quality Control.
- h. Submittal Register.
- i. Accident Prevention.
- j. Management Reporting.

1.24.2 Computer Software to be Furnished by the Government

The software program modules required for Contractor use will be provided by the Government to the Contractor on the approximate date listed.

RMS Version:

Date:

[(Contractor Quality
Control System (QCS) Module)]
[_____]
_____]

[Ten (10) work days after receipt
of Notice to Proceed]
[_____]
_____]

New versions of the Contractor's Module may be provided during the course of the contract, and the contractor shall use the new modules when provided. The data files shall be converted to the new modules at the same time by the Contracting Officer.

1.24.3 RMS User Guides and Support

The RMS Center is maintained to assist the Contractor's field engineers and office personnel perform their duties by providing expertise to plan, accomplish, and control the daily technical and administrative functions of construction projects managed by the U.S. Army Corps of Engineers. Points of contact, available guides, software updates and assistance with the associated Quality Control System (QCS) program may be obtained from the RMS home page located at the following url: <http://winrms.com> or <http://216.86.193.60/home/html> . No login or password is required.

1.24.4 Contractor Responsibility

The Contractor is responsible for establishing, maintaining and updating the provided Contractors Programming. The RMS shall be prepared and maintained at the work site. The Contractor shall utilize a Government furnished Contractor Quality Control System (QCS) Program. The Program includes a QC Daily Reports form which must also be used. This form may be in addition to other Contractor desired reporting forms. However, all other such reporting forms shall be consolidated into this one Government specified QC Daily Reports Form.

1.24.4.1 Government-Furnished Module Elements

The Contractor shall also be required to complete Government-Furnished Module elements which include, but are not limited to, subcontractor codes, planned cumulative progress earnings, subcontractor information showing trade, name, address, point-of-contact, and insurance expiration dates,

definable features of work, pay activity and activity information, required Quality Control tests tied to individual activities, planned Customer/User Training tied to specific specification paragraphs and Contractor activities, Installed Property Listing, Transfer Property Listing and Submittal information relating to specification section, description, activity number, review period and expected procurement period. The sum of all activity values shall equal the contract amount (inclusive of all modifications), and all Proposal Schedule Items, Options and Additives shall be separately identified, in accordance with Section 00010 entitled SUPPLIES OR SERVICES AND PRICES/COSTS. Proposal Schedule items may include multiple activities, but activities may only be assigned to one such Proposal Schedule item.

1.24.4.2 Quality Assurance Comments

During the course of the contract, the Contractor will receive various quality assurance comments from the Government that will reflect corrections needed to Contractor activities or reflect outstanding or future items needing the attention of the Contractor. The Contractor shall acknowledge receipt of these comments by a specific sequential number reference on his QC Daily Report. The Contractors QC daily reports shall also reflect the scheduled and actual dates when these items are completed or corrected to permit Government verification.

1.24.4.3 Project Schedule

The Project Schedule provided by the Contractor in compliance with Section 01320 entitled PROJECT SCHEDULE, of the Technical Provisions, shall be fully compatible with the RMS System. The RMS system is compatible with the Standard Data Exchange Format (SDEF) scheduling systems. It is recommended that one of the following software programs be utilized: Approach (PPMS 30,000), AlderGraf Systems (AlderGraf), Pinnell-Busch (PMS-80), Primavera Systems, Welcome Technologies (Open Plan). The Contractor's schedule system shall include, as specific and separate activities, all three (3) Phase Inspection meetings, all Operation and Maintenance (O&M) Manuals, instructions and training for operation and maintenance, Contractor furnished spare parts, submittals, all test plans of electrical and mechanical equipment or systems that require validation testing or instructions to Government Representatives, and all CQC completion inspections.

1.24.5 Payment

Separate payment will not be made for maintaining and updating the RMS System, and all costs associated therewith shall be included in the applicable unit prices or lump-sum prices contained in the Proposal Schedule. Submission of all required modules shall be completed to the satisfaction of the Contracting Officer prior to any contract payment (except for Bonds, Insurance and/or Mobilization, as approved by the Contracting Officer) and shall be updated as required. The Contracting Officer may elect to withhold any and all partial payments until the submissions are satisfactory.

1.24.6 RMS Implementation Plan

The Contractor shall furnish for review and acceptance by the Government, not later than twenty (20) calendar days after receipt of Notice To Proceed, the plan for implementation of the RMS System.

1.24.6.1 Quality Control (QC)/Quality Assurance (QA) Mutual Understanding Meeting

The Contractor shall prepare in outline form, a proposed RMS implementation plan which shall be discussed at the pre-construction conference. Detailed discussions including the Contractor's approved RMS implementation plan shall be made a supplemental part of the Quality Control (QC)/Quality Assurance (QA) mutual understanding meeting. During this supplemental meeting the Government will provide an overview of the RMS system. At a minimum, Contractor personnel responsible for the following shall be in attendance: Contractor Quality Control, Project Schedule, Submittals, Partial Payment Estimates, Subcontracting, Operation and Maintenance Training, and installed property and equipment.

1.24.6.2 RMS Implementation Plan

At a minimum, the RMS plan shall include the following:

- a. A description of the RMS team, including a chart showing lines of authority, duties, and responsibilities.
- b. The name, qualifications (in resume format), duties, responsibilities, and authorities of each person assigned a RMS function.
- c. Procedures for joint Government/Contractor review and verification of proposed input. This shall include certification from the Contractor that the submitted input is accurate, current, and in strict conformance to all contract requirements.
- d. Proposed procedures to ensure compatibility of the existing Government system with the Contractors proposed Hardware and Software.
- e. Proposed controls, instructions and procedures to ensure smooth and effective transfer of electronic data.
- f. Proposed reporting procedures, including reporting formats, techniques and equipment.

1.24.6.3 Acceptance of Plan

Approval of the Contractor's proposed plan is required prior to the start of construction. Acceptance is conditional and will be predicated on satisfactory performance during the construction. The Government reserves the right to require the Contractor to make changes in his RMS Plan and operations including but not necessarily limited to modifications to hardware, software, and removal of personnel, as necessary, to obtain the quality and efficiency as specified.

1.24.6.4 Notification of Changes

After acceptance of the RMS plan, the Contractor shall notify the Contracting Officer in writing of any proposed change. Proposed changes are subject to acceptance by the Contracting Officer.

1.24.7 Personnel Requirements

The requirements for the RMS organization are a RMS System Manager and

sufficient number of additional qualified personnel to ensure contract compliance.

1.24.7.1 RMS Manager

The Contractor shall identify as RMS Manager an individual within the onsite work organization who shall be responsible for overall management of RMS and have the authority to act in all RMS matters for the Contractor. The RMS Manager shall be [a graduate engineer, graduate architect, or a graduate of computer science, with a minimum of [_____] years construction experience. This RMS Manager shall be physically located on-site and shall be employed by the prime Contractor. The RMS Manager shall be [assigned no other duties] [assigned as RMS Manager but may have other duties]. An alternate for the RMS Manager shall be identified in the plan to serve in the event of the RMS Manager's absence. The requirements for the alternate shall be the same as for the designated RMS Manager.

1.24.7.2 RMS Staff

The Contractor's RMS staff shall maintain a presence at the site at all times during progress of the work and have complete authority and responsibility to take any action necessary to ensure contract compliance. The RMS staff shall be subject to acceptance by the Contracting Officer.

1.24.7.3 RMS Office Facilities and Equipment

The Contractor shall provide adequate office space, computers, and other resources as necessary to maintain an effective and fully functional RMS organization.

1.24.8 Hardware and Software

The Contractor shall submit all of the RMS input data and updates required by the Contractor's Quality Control Module of the Government's Resident Management System (RMS).

QCS System Hardware Requirements

[_____]

QCS System Software Requirements

[_____]

RMS Server Minimum Requirements

[_____]

RMS Workstation Minimum Requirements

[_____]

State of the Art Anti-Virus Software

The Contractor's computer software system shall be protected by a State-of-the-Art Anti-Virus protection system which shall be maintained and upgraded with all issued manufacturer's updates throughout the life of the contract period.

1.24.9 Notification of Noncompliance

The Contracting Officer will notify the Contractor of any detected noncompliance with the requirements of this clause. The Contractor shall take immediate corrective action after receipt of such notice. Such notice, when delivered to the Contractor at the work site, shall be deemed sufficient for the purpose of notification. If the Contractor fails or refuses to comply promptly, the Contracting Officer may issue an order stopping all or part of the work until satisfactory corrective action has been taken. No part of the time lost due to such stop orders shall be made the subject of claim for extension of time or for excess costs or damages by the Contractor.

1.24.10 Contractor Partial Payment Estimates

The RMS System shall be used for preparing, approving, and printing the Contractors partial payment estimate.

1.24.10.1 Monthly Coordination Meeting

The RMS System shall be completely updated at least monthly. Specific calendar dates for submission of same shall be determined by the Contracting Officer. Prior to submitting a partial payment estimate, the Contractor shall schedule a coordination meeting with the Government to verify the status of activities proposed for payment. This meeting shall evaluate at a minimum the following:

- a. Activities proposed for payment.
- b. Total dollar value and previous earnings of each activity proposed for payment.
- c. Percent or quantity proposed for payment by the Contractor.
- d. Percent or quantity approved for payment by the Government.
- e. Verification of activities started, on-going, or completed.
- f. Verification that required "Three Phase-Inspections" have been conducted satisfactorily.
- g. Verification that all Accident Prevention/Safety and Construction deficiencies have been noted and corrected to the satisfaction of the Contracting Officer.
- h. Verification that there are no outstanding submittals.
- i. Verification that CQC testing has been performed.
- j. Verification that a daily record of as-built conditions is being maintained.
- k. Verification that salvage material has been turned over.
- l. Verification that Government furnished property has been transferred.
- m. Verification that Contractor Requests for Information (RFI's) have been submitted.

- n. Verification that installed property and equipment information is current in RMS. The RMS database shall include all information on the property and equipment at the time of installation of each item.
- o. Verification of other required items as noted on the approved RMS Implementation Plan.

1.24.10.2 Re-submission of Partial Payment Estimates

Prior to requesting a partial payment estimate, the Contractor is required to submit and receive approval, for all elements of the RMS that require updating. In the event that any data is missing, unavailable, incorrect, or determined by the Contracting Officer to portray unrealistic parameters or misrepresent actual conditions, the Contracting Officer may require the Contractor to correct, revise and resubmit the required RMS input or status information, prior to accepting any partial payment estimate for evaluation. Any payment amount previously paid on the basis of inaccurate or incorrect information submitted by the Contractor, may be adjusted by the Contracting Officer in subsequent payment estimates. If the Contractor fails to submit the required updates, or transfers the information in a fragmented or piecemeal fashion, the Contracting Officer may, in addition to other remedies provided under this contract, withhold approval of all or any portion of the partial payment estimate until a complete RMS update has been provided and approved.

1.25 PREPARATION OF AS-BUILT DRAWINGS (CONTRACTOR)

1.25.1 General

Upon completion of each facility under this contract, the Contractor shall prepare and furnish both as-built drawings and Geospatial shapefiles to the Contracting Officer. The as-built drawings shall be a record of the construction as installed and completed by the Contractor. They shall include all the information shown on the contract set of drawings, and all deviations, modifications, or changes from those drawings, however minor, which were incorporated in the work, including all additional work not appearing on the contract drawings, and all changes which are made after any final inspection of the contract work. In the event the Contractor accomplished additional work which changes the as-built conditions of the facility after submission of the final as-built drawings, the Contractor shall furnish revised and/or additional drawings and drawing files as required to depict final as-built conditions. The requirements for these additional drawings shall be the same as for the as-built drawings specified in this paragraph. Additionally all site improvements shown on the site drawings and site utilities shall be provided in ESRI ArcGIS 9.1 Geospatial shape files using Universal Transverse Mercator (UTM) coordinate system.

1.25.2 Daily Record of As-Built Conditions

1.25.2.1 General

The Contractor shall maintain a full size set of contract drawings for depicting a daily record of as-built conditions. These drawings shall be maintained in a current, reproducible condition at all times during the entire contract period and shall be readily available for review by the Contracting Officer's Representative at all times. The as-built drawings

shall be updated daily by the Contractor showing all changes from the contract plans which are made in the work, or additional information which might be uncovered in the course of construction. This information shall be recorded on the prints accurately and neatly by means of details and notes. Changes and additional information marked on the contract plans should be made in red or green color for highlighting purposes.

1.25.2.2 Certification Prior to Submission of Partial Payment Estimates

In addition to the requirements of 52.232-5 PAYMENTS UNDER FIXED-PRICE CONSTRUCTION CONTRACTS, the contractor shall provide to the Government the following certification:

I certify that the As-Built conditions have been reviewed in detail and that a daily record of As-Built conditions is being maintained in strict conformance with section 01060 SC 1.25 PREPARATION OF AS-BUILT DRAWINGS except as otherwise stated.

1.25.2.3 Daily Record of As-Built conditions

The daily record of As-Built conditions shall include but not necessarily be limited to the following:

- a. All necessary information for As-Built conditions including proprietary materials, equipment, system, and patented processes, shall be transferred from the appropriate shop drawings and digitally incorporated into the As-Built drawings in the Computer Assisted Design and Drafting (CADD) format specified by this clause. Under NO circumstances will shop drawings and submittals approved by the Government be used to supplant and/or supplement the requirements of this clause. As-Built drawings that substitute shop drawings/submittals for original CADD files will be returned for resubmission.
- b. The location and description of any utility lines or other installations of any kind or description known to exist within the construction area. The location includes dimensions to permanent features.
- c. The location and dimensions of any changes within the building or structure, and the accurate location and dimension of all underground utilities and facilities.
- d. Correct grade or alignment of roads, structures, or utilities if any changes were made from contract plans.
- e. Correct elevations if changes were made in site grading.
- f. Changes in details of design or additional information obtained from working drawings specified to be prepared and/or furnished by the Contractor including but not limited to fabrication, erection, installation plans and placing details, pipe sizes, insulation material, dimensions of equipment foundations, etc.
- g. The topography and grades of all drainage installed or affected as part of the project construction.
- h. All changes or modifications of the original design including those which result from the final inspection.

- i. Where contract drawings or specifications allow options, only the option actually used in the construction shall be shown on the as-built drawings. The option not used shall be deleted.

1.25.3 Computer Assisted Design and Drafting (CADD) Software

Digital As-Built drawing files shall be prepared in the format native to the latest version in common use of [Bently MicroStation] [AutoCad] COMPUTER ASSISTED DESIGN AND DRAFTING (CADD) software. Geospatial shape files shall be provided using ESRI ArcGIS 9.1. The shape files shall be compliant with the Spatial Data Standards for Facilities, Infrastructure and Environment (SDFSIE) Release 2.600. The standards are available at <http://www.sdsfie.org/SDSFIEHome/tabid/36/Default.aspx>.

1.25.4 Translated or Converted Files - Drawing Files

Under NO circumstances shall the Contractor translate (or convert) the digital As-Built files from one CADD software program to another (e.g., from Bently MicroStation to Autocad). As-Built drawings that show signs of translation or conversion will be returned for resubmission.

1.25.5 Geospatial Shape Files and Data

All geospatial data shall overlay on the as-built drawings. The contractor shall utilize a topology build and clean routine and assure the following:

- a. No erroneous overshoots, undershoots, dangles or intersections in the line work.
- b. Lines should all be continuous, i.e. do not create dashed lines with many small line segments.
- c. Point features should be digitized as points, not graticules, symbols or icons
- d. No sliver polygons.
- e. All polygons completely close and have a single unique centroid
- f. Digital representation of the common boundaries for all graphic features must be coincident, regardless of feature layer.
- g. Feature Attributes: The contractor shall identify the classification, type, location, ID number, and any other necessary attributes (specified by the Government) for all features.
- h. Metadata: The contractor shall complete all metadata elements marked mandatory and mandatory-if-applicable as defined by the FGDC Content Standards for Digital Geospatial Metadata for each feature layer collected. This standards document can be found at: http://www.fgdc.gov/standards/standards_publications.

1.25.6 Preliminary As-Built Drawings Submission

One (1) copy of the preliminary as-built marked prints and prints of the Geospatial shape files shall be delivered to the Contracting Officer at the time of final inspection of each facility for review and approval. Changes and additional information marked on the contract plans should be made in

red or green color for highlighting purposes. If upon review of the preliminary as-built drawings and Geospatial shape files, errors or omissions are found, the drawings will be returned to the Contractor for corrections. The Contractor shall complete the corrections in red or green color, and return the as-built marked prints and Geospatial shape files marked prints to the Contracting Officer within ten (10) calendar days.

1.25.7 Final As-Built Drawings Submission

The Contractor shall update the digital contract drawing files and Geospatial shape files to reflect the approved final as-built conditions and shall furnish those updated drawing files and plots of the final as-built drawings and Geospatial shape files to the Contracting Officer.

- a. Only personnel proficient in the use of Computer Assisted Design and Drafting (CADD) for the preparation of drawings shall be employed to modify the contract drawing files or prepare new drawing files. Only personnel proficient in the use of ESRI ArcGIS 9.1 and the standards listed in SDFSIE shall be employed to create or modify the Geospatial shape files.
- b. Existing digital drawing files shall be updated to reflect as-built conditions. Independent drawing files containing only as-built information are not acceptable. The modifications shall be made by additions and deletions to the original drawing files, and where additional drawings are necessary, they shall be developed in individual digital files for each new drawing. All additions and corrections to the contract drawing files shall be clear and legible, and shall match the adjacent existing line work and text in type, size, weight, and style. New or revised information placed into the design files shall be placed on the levels and in the colors used for placement of the corresponding initial data. Similarly, the drawing size, title block, and general format of new drawings shall be consistent with the format established by the original drawings.
- c. In the preparation of as-built drawings, the Contractor shall remove "Bubbles" used by the Government to highlight drawing changes made during design/construction. Triangles associated with those earlier drawing changes shall be left on the drawings and the Contractor shall not add triangles to designate modifications associated with representation of the as-built condition. The revision block identification of the drawing modifications shall be left intact and the date of completion and the words "REVISED AS-BUILT" shall be placed in the revision block above the latest existing notation. Each drawing shall have the words "DRAWING OF WORK AS-BUILT" in letters 4.5 mm (3/16") high placed below the drawing title portion of the drawing title block; between the border and the trim line.
- d. The Contractor shall check all final as-built drawing files for accuracy, conformance to the initial drawing scheme and the above instructions. The Contracting Officer will review the drawings and drawing files for conformance to these standards.
- e. Digital drawing files shall be furnished to the Contracting Officer on CD-ROM or other media and format as approved by the Contracting Officer. A transmittal sheet containing the name of the files, the date of creation, the CD-ROM number, and a short description of the contents, shall accompany the CD-ROM.

f. A sample drawing of the as-builts and Geospatial shape files shall be furnished to the Contracting Officer before delivery of final as-built drawings as a test to demonstrate compliance with the above instructions and file format compatibility with the described CADD and Geospatial software and the standards listed in SDFSIE.

g. One (1) complete set of both the updated final Record Copy digital drawing files and Geospatial shape files and one (1) paper plot or copy of both the final Record drawings and Geospatial shape files prints shall be delivered to the Contracting Officer within 30 calendar days of approval of the preliminary as-built drawings and Geospatial shape files prints. If upon review of the final as-built drawings and Geospatial shape files, errors or omissions are found, the drawings, Geospatial shape files and drawing files will be returned to the Contractor for corrections. The Contractor shall complete the corrections and return both the digital files and Geospatial shape files and both the as-built prints and Geospatial shape files prints to the Contracting Officer within ten (10) calendar days.

1.26 PREPARATION OF AS-BUILT DRAWINGS (GOVERNMENT)

1.26.1 General

The Contractor shall maintain a full size set of contract drawings for depicting a daily record of as-built conditions. These drawings shall be maintained in a current, reproducible condition at all times during the entire contract period and shall be readily available for review by the Contracting Officer's Representative at all times. The as-built drawings shall be updated daily by the Contractor showing all changes from the contract plans which are made in the work, or additional information which might be uncovered in the course of construction. This information shall be recorded on the prints accurately and neatly by means of details and notes. Changes and additional information marked on the contract plans should be made in red or green color for highlighting purposes. The drawings shall show the following information, but not be limited thereto:

- a. The location and description of any utility lines or other installations of any kind or description known to exist within the construction area. The location includes dimensions to permanent features.
- b. The location and dimensions of any changes within the building or structure, and the accurate location and dimension of all underground utilities and facilities.
- c. Correct grade or alignment of roads, structures, or utilities if any changes were made from contract plans.
- d. Correct elevations if changes were made in site grading.
- e. Changes in details of design or additional information obtained from working drawings specified to be prepared and/or furnished by the Contractor including but not limited to fabrication, erection, installation plans and placing details, pipe sizes, insulation material, dimensions of equipment foundations, etc.
- f. The topography and grades of all drainage installed or affected as part of the project construction.

- g. All changes or modifications of the original design including those which result from the final inspection.
- h. Where contract drawings or specifications allow options, only the option actually used in the construction shall be shown on the as-built drawings. The option not used shall be deleted.
- i. In development of as-built drawings, the Contractor shall not substitute shop drawings for original contract drawings. All necessary information for as-built conditions shall be incorporated into contract drawings.

1.26.2 Submittal

Submittal to Contracting Officer for review and approval: Two (2) copies of the preliminary as-built marked prints shall be delivered to the Contracting Officer at the time of final inspection of each facility for review and approval. Changes and additional information marked on the contract plans should be made in red or green color for highlighting purposes. If upon review of the preliminary as-built drawings, errors or omissions are found, the drawings shall be returned to the Contractor for corrections. The Contractor shall complete the corrections in red or green color, and return both sets of final as-built marked prints to the Contracting Officer within ten (10) calendar days. Preparation of final as-built reproducible drawings will be by others.

1.27 CERTIFICATES OF COMPLIANCE

Any certificates required for demonstrating proof of compliance of materials with specification requirements shall be executed in accordance with Section 01330 SUBMITTAL PROCEDURES. Each certificate shall be signed by an official authorized to certify in behalf of the manufacturing company involved and shall contain the name and address of the Contractor, the project name and location, description and the quantity of the items involved, and date or dates of shipment or delivery to which the certificates apply. Copies of laboratory test reports submitted with certificates shall contain the name and address of the testing laboratory and the date or dates of the tests to which the report applies. Certification shall not be construed as relieving the Contractor from furnishing satisfactory material.

1.28 ACCIDENT PREVENTION

The requirements contained in this clause are in addition to and supplement the requirements of Section 01525 SAFETY AND OCCUPATIONAL HEALTH REQUIREMENTS. The Contractor shall comply with all applicable Host Country laws and with such additional measures as the Contracting Officer may find necessary in accordance with CONTRACT CLAUSE 52.236-13 entitled ACCIDENT PREVENTION (NOV 1991)-ALTERNATE 1 (APR 1984). Applicable provisions of the Corps of Engineers manual entitled Safety and Health Requirements Manual EM 385-1-1, will be applied to all work under this contract. The referenced manual may be obtained from the Contracting Officer's Representative at the jobsite or from the Transatlantic Programs Center at Winchester, Virginia.

1.28.1 Accident Prevention Program

Within fifteen (15) days after receipt of Notice to Proceed, and at least ten (10) days prior to the accident prevention pre-work conference, four (4) copies of the Accident Prevention Plan required by the CONTRACT CLAUSE

52.236-13 entitled ACCIDENT PREVENTION (NOV 1991)- ALTERNATE I shall be submitted for review by the Contracting Officer. The Contractor shall not commence physical work at the site until the Accident Prevention Plan (APP) has been reviewed and accepted by the Contracting Officer or his authorized representative. The APP shall meet the requirements listed in Appendix "A" of EM385-1-1. The program shall include the following:

TAC Form 61 " Accident Prevention Program Hazard Analysis (Activity Hazard Analysis)" fully completed and signed by an executive officer of the company in block No. 13.

The Activity Hazard Analysis is a method in which those hazards likely to cause a serious injury or fatality are analyzed for each phase of operations. Corrective action is planned in advance which will eliminate the hazards. An analysis is required for each new phase of work. On large or complex jobs the first phase may be presented in detail with the submittal of the Accident Prevention Plan rather than presenting the complete analysis. If the plan is to be presented in phases, a proposed outline for future phases must be submitted as a part of the initial Accident Prevention Plan submittal. Accident Prevention Plans will be reviewed for timeliness and adequacy at least monthly with a signature sheet signed and dated documenting that these reviews took place.

Copy of company policy statement of Accident Prevention and any other guidance as required by EM 385-1-1, Appendix A.

1.28.2 Ground Fault Circuit Interrupter (GFCI) Requirement - Overseas Construction

The Corps of Engineers Health and Safety Manual, EM 385-1-1, section 11.C.05.a. states: "The GFCI device shall be calibrated to trip within the threshold values of 5 ma +/- 1 ma as specified in Underwriters Laboratory (UL) Standard 943." A variance from USACE has been granted allowing 10 ma, in lieu of 5 ma, for overseas activities that use 220 Volts(V)/50 hertz(hz) electrical power.

1.28.3 Temporary Power - Electrical Distribution Boxes

EM 385-1-1 section 11.A.01.a. states "All electrical wiring and equipment shall be a type listed by a nationally recognized testing laboratory for the specific application for which it is to be used." This includes temporary electrical distribution boxes. Locally manufactured electrical boxes will not be allowed. Only manufactured electrical distribution boxes that meet the European CE requirements, with 10 ma CE type GFCIs installed shall be allowed.

Contractors shall:

- a. Make no modifications that might void any CE or manufacturer certification.
- b. Test the installed systems to demonstrate that they operate properly and provide the 10 ma earth leakage protection.
- c. Ensure GFCIs will have an integral push-to-test function. The testing shall be performed on a regular basis.
- d. Check that proper grounding is checked regularly and flexible cords, connectors, and sockets inspected before each use.

1.28.4 Reinforcement caps

All rebar and other protruding reinforcing steel, onto and into which employees could fall, shall be guarded to eliminate the hazard of impalement. The guarding shall be capable of withstanding a 113 kg (250 lbs) weight dropped from 2.3 meters (7'6") without the rebar or other protruding reinforcing steel breaking through, using protective devices such as steel reinforced covers and wooden troughs. Individual blocks of wood or mushroom style plastic rebar caps manufactured for "scratch protection" only shall not be used unless they can meet the 113 kg requirement.

1.29 HAZARDOUS MATERIALS

Should the Contractor encounter asbestos or other hazardous materials, during the construction period of this contract, he shall immediately stop all work activities in the area where the hazardous material is discovered. The Contractor shall then notify the Contracting Officer; identify the area of danger; and not proceed with work in that area until given approval from the Contracting Officer to continue work activities. Hazardous material is considered to be asbestos, explosive devices, toxic waste, or material hazardous to health and safety. The Contractor shall secure the area from daily traffic until it is safe to resume normal activities.

1.30 NOT USED

1.31 CONTRACTOR FURNISHED SPARE PARTS

1.31.1 General

The requirements of this clause are in addition to any requirements for the provision of specific spare parts to be provided by the Contractor included in Divisions 2 thru 16 of the Technical Provisions. The Contractor shall furnish spare parts as directed by the Contracting Officer under the provisions of this clause for all equipment for which O&M data is to be provided under Clause [OPERATION AND MAINTENANCE (O&M) DATA FOR EQUIPMENT AND SYSTEMS] [OPERATION AND MAINTENANCE (O&M) DATA] of this contract. The term "spare parts" as used herein shall include spare parts, special tools and test equipment.

1.31.2 Selection of Spare Parts to be Furnished

The Contractor shall provide master parts lists, recommended spare parts lists and lists of special tools and test equipment as a part of the equipment O&M data required by Clause OPERATION AND MAINTENANCE (O&M) DATA FOR EQUIPMENT AND SYSTEMS. The master parts list shall include the supplier's price for each part. After review of the lists, the Contracting Officer will select spare parts and furnish written direction to the Contractor indicating quantities and types of spare parts to be furnished by the Contractor. Written directions for spare parts orders may be provided on an incremental basis as reviews of O&M data submitted by the Contractor are completed but will not necessarily be issued in the sequence in which the Contractor submitted the equipment O&M data.

1.31.3 Procurement and Delivery Status Reports

The Contractor shall provide the Contractor Officer with quarterly status

reports listing the status of all spare parts ordered by the Government under this clause. The data to be provided shall include but not necessarily limited to a brief description of the spare part, quantity, manufacturer, as well as the proposed and actual dates for the procurement, shipping and stocking at the project site.

1.31.4 Procurement and Delivery of Spare Parts

The Contractor shall procure and be responsible for delivery, receipt, handling, placing in storage, shelving, inventory, and turnover to the Contracting Officer all spare parts selected by the Contracting Officer.

In addition to the recommended spare parts list required in paragraph SELECTION OF SPARE PARTS TO BE FURNISHED above, the Contractor is responsible to have six (6) months supply of manufacturer's recommended spare parts on site ready to turn over to the Contracting Officer at the time of acceptance of the facility.

1.31.4.1 Shipment and Delivery

The Contractor shall be responsible for the shipment and delivery of spare parts to the location on or near the site in [_____] as selected by the Contracting Officer. The Contractor shall provide all manpower and equipment required to receive and place into designated storage areas and/or shelves all spare parts purchased under this clause. The Contractor shall give the Contracting Officer thirty (30) calendar days notice of arrival at the site of the first shipment.

1.31.4.2 Turnover of Spare Parts

The Contractor shall notify the Contracting Officer seventy-two (72) hours prior to delivery of spare parts to the designated storage area. The Contractor and a representative of the Contracting Officer will perform a joint inventory of the spare parts and the spare parts will be turned over to the Contracting Officer. Spare parts purchased under this clause shall not be used by the Contractor.

1.31.4.3 Parts and Package Identification

Prior to shipment from point of purchase, each spare part shall be tagged or otherwise marked or labeled. Such labeling may be placed or affixed to the container, box or packaging in which spare parts are located when it is not feasible to place or affix such labeling directly on each spare part. Tags or labels shall include, but not necessarily be limited to; part number, description, parent equipment name and number location, project and/or other data as directed by the Contracting Officer.

1.31.4.4 Preservation and Packaging Instruction

- a. Items ordered under this contract shall be preserved and packed for a minimum of three (3) years shelf life storage. All items shall be individually packaged except when the manufacturer specifies that the items are to be used in sets. Appropriate identification labels must be affixed to the items protective box or package. After the spare parts are packaged, the manufacturer shall weigh the spare parts and packaging and place the weight and size of the packaged container on the label with other information as outlined herein. Each item, not normally identified with manufacturer's name and part number, shall have an appropriate

label affixed to it with manufacturer's name and part number.

- b. Machined spare parts shall be lubricated or coated in order to withstand extensive periods of storage in a highly corrosive atmosphere.
- c. Large items (greater than 50 lbs., or larger than one cubic foot) shall be packaged in waterproof wooden boxes and properly braced. Cushioning shall be used to prevent damage to the item and to the packaging material.
- d. Solid state components, such as diodes, transistors, integrated circuits or equipment consisting of such parts which can be damaged as a result of static electricity and other stray electro-magnetic fields shall be packaged in heat-sealed, aluminum foil, laminated, flexible packages.
- e. All other spare parts shall be packaged in heat sealed plastic bags or wrap. Delicate and more fragile items such as test equipment shall be cushioned or wrapped with transparent bubble wrap material prior to being inserted into the plastic package.

1.31.5 Bar coding Identification System

Prior to shipment from point of purchase, each spare part shall be bar coded as well as labeled or tagged. The bar coding system shall be an alphanumeric coding tracking system similar to "Code 39". All labeling may be placed or affixed to the container, box or packaging in which spare parts are located when it is not feasible to place or affix such labeling directly on each spare part. Bar coding, tags and/or labels shall include the following minimum information: part number, description, parent equipment name and number location, and project data or other information as directed by the Contracting Officer. Upon acceptance of the spare parts by the Government, the Contractor developed bar coding system including but not necessarily limited to scanners, verifiers, card readers, decoders, printers, software, and consumables, shall be turned over to the Government. The Contractor shall within 75 days of Notice-to-Proceed, submit to the Contracting Officer for approval, its proposed equipment and plan for the bar coding system.

1.31.6 Warranty

All spare parts provided by the Contractor under this clause are subject to the general warranty clauses of this contract.

1.31.7 Payments for Spare Parts

Payments for spare parts ordered under the paragraph entitled "Selection of Spare Parts To Be Furnished" will be made under the payment item of the Proposal Schedule entitled "Spare Parts". Payments for spare parts specifically required elsewhere in this contract shall be considered as part of those equipment costs and shall be included in other payment items as appropriate. Payments for spare parts ordered under this clause shall be based on the invoice price (FOB supplier) plus certified invoice price of surface shipment to the site in [_____]. The invoice price (FOB supplier) shall include the separately listed cost for preservation and packaging by the manufacturer as specified herein. The Contractor shall provide invoices and any additional backup which may be required to demonstrate that the invoices presented represent the cost of spare parts,

preservation and packaging, and cost of surface shipment to the site. Payment for handling, delivery, inventory, turnover, customs, overhead or profit shall not be paid or allowed under this Contract Provision, and shall be included in the cost for installation of this equipment under the other appropriate payment items of this contract. Price increases over prices furnished under paragraph SELECTION OF SPARE PARTS TO BE FURNISHED shall be fully substantiated. Payment for spare parts will be made after the spare parts have been accepted at the site by the Contracting Officer. If the total payments under the payment item entitled "Spare Parts" does not reduce the balance of this payment item to zero, the remaining balance will be deducted from the final contract amount. If orders exceed the payment item entitled "Spare Parts", a modification for equitable adjustment will be issued in accordance with Contract Clause 52.243-4 entitled CHANGES. Payments for spare parts ordered under this clause shall constitute full payment for all cost of the spare parts and associated cost of preservation and packaging, and cost of surface shipment to the site. Other ancillary costs shall be included by the Contractor under the other appropriate payment items of this contract and no additional cost except as provided herein will be allowed.

1.32 OPERATION AND MAINTENANCE (O&M) DATA FOR EQUIPMENT AND SYSTEMS

1.32.1 General

The requirements contained herein are in addition to all shop drawing submission requirements (e.g., SD-19) stated in other sections of the specification. The Contractor shall include provisions for obtaining the data required below in all purchase orders and sub-contract agreements issued under this contract. The Contractor shall obtain that data which is required to operate and maintain all items of equipment and all systems/subsystems under either normal or emergency operating conditions. See items listed under paragraph EQUIPMENT FOR WHICH O&M DATA MUST BE SUBMITTED for example.

1.32.2 O&M Data for Equipment

1.32.2.1 Equipment for Which O&M Data Must be Submitted

The Contractor shall provide all data necessary to operate and maintain all equipment purchased and/or installed under this contract. The data will consist of any O&M instructions not normally the common knowledge of a Journeyman Level Technician in the applicable trade. Provided below are examples of the general types of equipment for which the Contractor is required to submit O&M data. The examples provided are not definitive for this contract, but are provided to indicate the general types of equipment for which O&M data is required.

| | |
|-------------------|--|
| Control Devices | Chillers |
| Lighting Fixtures | Motor Generator Sets |
| Valves | Cooling Towers |
| Air Conditioners | Shop Equipment |
| Motors | Kitchen Equipment |
| Water Heaters | Exhaust Fans |
| Compressors | Plumbing Fixtures |
| Boilers | Appliances (e.g. washing machines, food disposers, coffee urns, etc) |

1.32.2.2 Data to be Provided for Each Equipment Item

For each equipment item O&M data shall be submitted as described below. For identical pieces of equipment installed within any one system, only one (1) file of O&M data for that equipment item will be required for maintenance purposes. Deviation from these requirements will require approval of the Contracting Officer. The data as a minimum will include for each equipment item, the following:

- a. Equipment O&M Data Sheet: Equipment O&M data sheet shall include the equipment name, manufacturer's name and address, model number, (including characteristics and any special remarks), and the serial number(s), tag number(s) or any user assigned identification number(s), and installed location(s) of the equipment. This sheet shall be the first page of each item of equipment O&M data package and shall contain a checklist covering paragraphs 1.32.2.2.b thru 1.32.2.2.j hereinafter.
- b. Equipment Description: Equipment description shall include item name, model number, serial number, equipment price (FOB Manufacturer), electrical and/or mechanical characteristics, manufacturer's name and address, order number and all other data found on the equipment name plates. Include local/regional representative of manufacturer, name, address, telephone number, and telex number.
- c. Component and Assembly Drawings/Master Parts List: Component and assembly drawings/master parts list shall contain exploded views and a master parts list clearly identifying all parts and subassemblies by manufacturer's part number. Master Parts list shall also include the price for each part (FOB Manufacturer) and effective date.
- d. Control Diagrams and Sequences of Operations: Control diagrams and sequences of operations shall include operating instructions (including normal start-up, normal shut-down and emergency shut-down as applicable).
- e. Performance Characteristics: Performance characteristics shall include performance curves for full range of operation, and data pertinent to characteristics of equipment provided.
- f. Installation Instructions: Installation instructions shall include adjustment and alignment procedures, checkout procedures and test procedures.
- g. Preventive Maintenance Procedures: Preventive maintenance procedures shall include inspection, cleaning, adjustment, service and lubrication instructions. A schedule shall be furnished for each piece of equipment listing manufacturer's recommended maintenance routine of specific tasks to be performed at specific intervals such as daily, weekly, monthly, quarterly, or based on the number of operating hours. Preventive maintenance schedules shall take into account operating conditions in [_____].
- h. Corrective Maintenance Procedures: Corrective maintenance procedures shall include instructions for troubleshooting, repair, overhaul and calibration.

- i. Special Items: The Contractor shall prepare a list of special tools, test equipment, and safety precautions when specified in the Technical Provisions and special items that are normally provided by the manufacturer with the equipment. The list shall also include the current unit price and date for each item (FOB MANUFACTURER).
- j. Recommended Spare Parts List: List shall contain the manufacturer's recommendation for [five (5) years and two (2) years] [five (5) years, two (2) years, and one (1) year] [five (5) years, two (2) years, and six (6) months] [two (2) years, and six (6) months] spare parts stock levels in [_____]. Current unit price and effective date, lead time, shelf life for each individual part, and total cost of all recommended parts shall be furnished.

1.32.2.3 Preparation of O&M Data for Each Equipment Item

At least two (2) sets of the final approved O&M Data shall be composed of original copies. No other form of printed and prepared data shall be acceptable unless approved in writing by the Contracting Officer. All data shall be prepared in the English language covering data described in paragraph EQUIPMENT FOR WHICH O&M DATA MUST BE SUBMITTED, and shall be furnished in the number of submittals (number of sets of volumes) specified in Section 01330 SUBMITTAL PROCEDURES of the Technical Provisions. Each item of equipment shall be cross referenced in the equipment O&M Data and Systems Manuals, to include installation location using the Contractor's system of identification as approved by the Contracting Officer. All data shall be presented on 8-1/2 x 11 inch sheets to the greatest possible extent. Foldouts will normally be limited to 11 x 17 inch sheets. For other sets of data, reproductions shall be clear, legible, re-reproducible, and not subject to fade. Extraneous information on inapplicable models or components shall be removed or suitably marked through. O&M data shall be contained in a volume consisting of multi-ring binders of good commercial quality. Each volume shall be identified by the equipment name as shown on the Equipment O&M Data Sheet, and sequentially numbered. Each volume shall include an index of items included in the binder and the index shall be the first sheet in the binder, and all remaining data shall be taped accordingly. Volume binders shall be packed (maximum) 2/3 full to allow easy access to contents.

1.32.2.4 O&M Data Submittal Procedure for Each Equipment Item

The initial submittal of O&M Data for each item of equipment shall include all data required in paragraph DATA TO BE PROVIDED FOR EACH EQUIPMENT ITEM above, and as required by the technical specifications. Each O&M Data Package shall be submitted in two (2) copies to the Contracting Officer for approval of format and content, not later than ninety (90) calendar days following equipment item selection approval. After approval the two (2) copies will be returned to the Contractor to maintain for incorporation into the final submittal of the full set of O&M Manuals. The Contractor shall allow a minimum period of forty-five (45) calendar days from receipt by the government (exclusive of mailing time) for the Government review and approval/disapproval of O&M data.

1.32.2.5 Payment for Preparation and Submittal of O&M Data for Individual Equipment Items

For payment purposes, preparation and submittal of required O&M data shall

be considered as part of the price for the individual item of equipment.

1.32.3 O&M Data for Systems

The Contractor shall develop and provide the data beyond separate equipment items necessary to operate and maintain all civil, mechanical and electrical systems for each building, each central plant, and/or each distribution or collection system. A system is defined as a group of equipment items related in purpose and which share electrical power or communication circuits as in a fire alarm system or which share mechanical piping or ductwork as in an HVAC system. O&M data for systems shall be submitted as described below.

1.32.3.1 Preparation and Organization of Systems O&M Manuals

At least two (2) sets of the final approved systems O&M manuals shall be composed of original copies. For each location and for each system installed, the Contractor shall prepare and provide the required number of sets of separate complete system O&M Manuals, bound in loose leaf three ring binders. These manuals will provide the basic information and direction needed by journeymen operators to effectively operate each system and by journeymen maintenance technicians to perform Preventive Maintenance (PM) and Corrective Maintenance (CM) routines on systems components. The following identification shall be printed on the cover and spine of each binder, the words "OPERATING AND MAINTENANCE INSTRUCTIONS", plus name of the system, the location of the building(s). When two or more binders are required for the data, for an individual system, the binder shall be marked 1 of n, 2 of n, 3 of n, etc. (where n equals the total number of binders). Each manual shall have a complete index page(s) which shall be inserted after the title page of the first volume of that system. Title page shall include name of project and project number. Each binder shall have a complete index that lists all the information and data contained in the binder(s). All systems O&M Manuals shall include the following:

- a. Each piece of equipment will have a divider and tab properly identified.
- b. Each section for each piece of equipment will have a divider and tab properly identified.
- c. Narrative description of principles of operation.
- d. Systems flow diagrams showing point-to-point connections, sequence of operation, control diagrams and identification of each system component.
- e. Electrical single line and three (3) line diagrams in sufficient detail to define the system and operation of related parts.
- f. Final balancing reports for air, water and other systems as applicable. (These may be added to the manual after installation testing is completed and accepted.)
- g. Systems test reports and certification.
- h. Operating procedures including pre-start, start-up, normal operation, emergency operation, normal and emergency shut-down.
- i. Schedules including valve schedules, circuit breakers schedules,

equipment schedules, etc.

- j. List of special tools and test and calibration equipment.
- k. List of systems components cross referenced to the O&M equipment data volume number.
- l. System preventive maintenance procedures and schedules.
- m. System troubleshooting guides.
- n. System corrective maintenance procedures.
- o. Folded-up copy of the system's wall charts (Training instructions).

1.32.3.2 Submittal of Systems O&M Manuals

Submittal of Systems O&M Manuals for each system installed shall include all data required in paragraphs 1.32.2.2.a thru 1.32.2.2.j hereinbefore. Two (2) copies shall be submitted to the Contracting Officer for approval not later than [___] calendar days prior to the construction completion date. If disapproved the two (2) copies will be returned to the Contractor for correction and resubmittal. Final submittals of all Systems O&M Manuals must include and be simultaneous with all O&M Data Manuals for equipment associated with that system.

Upon completion of systems check out and acceptance tests the Contractor shall submit a supplemental submittal containing any addition, deletion or correction found appropriate due to these tests performed in the field or during training.

1.32.3.3 Payment for Preparation and Submittal of System O&M Manuals

For payment purposes, preparation and submittal of required O&M manual data and framed instructions shall be considered as part of the price for the individual item of equipment. No separate payment will be made for the preparation and submittal of O&M manuals. In the event the Contractor fails to comply with these requirements or fails to deliver the O&M manual submittal within the stated time limits, the Contracting Officer may withhold sufficient funds from Contractor's progress payments until the required data is submitted and approved.

1.32.4 Framed Instructions for Systems

For each system, the Contractor shall provide framed instructions mounted on the wall of each mechanical and electrical equipment room which contains a portion of the system. The size of the framed instructions will be governed by the content to be framed plus room for a minimum of two (2) inch border. The framed instructions shall include drawings and typed narrative descriptions as required to provide the following information:

1.32.4.1 Drawings

Drawings containing flow, piping, instrumentation and control diagrams of mechanical systems and wiring and control schematics of electrical systems contained within or controlled from that equipment room.

1.32.4.2 Equipment and System Narrative

Narrative containing equipment and system normal pre-start, start-up, operating and shut-down procedures.

1.32.4.3 Emergency Shut-Down Narrative

Narrative of emergency shut-down instructions and safety precautions.

1.32.4.4 Preparation and Installation of Framed Instructions

All material prepared for use as framed instructions to meet the requirements of paragraph EQUIPMENT AND SYSTEM NARRATIVE above shall be prepared in the English language. All material prepared for use as framed instructions to meet the requirement of paragraph EMERGENCY SHUT-DOWN NARRATIVE above shall be prepared in dual language [] over English. Drawings and narratives prepared for use as framed instructions shall be submitted to the Contracting Officer for approval prior to posting. Framed instructions shall be mounted using frames with glass or rigid plastic covers as approved by the Contracting Officer. All framed instructions must be posted before final acceptance testing of the equipment and systems.

1.32.4.5 Payment for Framed Instructions

For payment purposes, the framed instructions will be considered a part of the Systems O&M Manuals.

1.32.5 Contractor Responsibility for Updating O&M Information

The Contractor shall be responsible for the accuracy of all information furnished in accordance with the above requirements. The Contractor shall be responsible for updating or supplementing all O&M data, including data which has been previously submitted, to reflect changes in the contract or to correct errors discovered by any other means. The O&M data for separate equipment items, the systems O&M Manuals, and the framed instructions prepared by the Contractor shall be utilized and verified during installation and testing of the equipment and/or systems and shall be updated and corrected as required. Errors found during systems testing and validation shall be corrected within fourteen (14) calendar days of completion of each test and validation. Drawings, pages of text, etc. of systems O&M Manuals shall be complete in final form. Marked-up drawings or pages are not acceptable.

1.33 OPERATION AND MAINTENANCE (O&M) DATA

1.33.1 General

The requirements contained herein are in addition to all shop drawings submission requirements stated in other sections of the specifications. The Contractor shall include the provisions for all items required under this clause in all purchase orders and sub-contract agreements. Submittals required hereinafter will not relieve the Contractor of any responsibilities under the Warranty of Construction Provisions of this contract or under the various Guarantee Clauses of the Technical Provisions.

1.33.2 Submittals

The Contractor shall submit all items requiring submission of O&M data

under this and other sections of these specifications in accordance with Section 01330 SUBMITTAL PROCEDURES of the specifications.

1.33.3 Operation and Maintenance (O&M) Data

The Contractor shall furnish operation and maintenance manuals for all facilities constructed under this contract. The manuals shall be loose leaf, indexed and shall consist of manufacturer's brochures, manufacturer's operation and maintenance manuals, service and repair manuals, catalogs, service bulletins, instruction charts, diagrams, other information as necessary to support the operation and maintenance of the end items of equipment, assemblies and systems. Each type of facility (housing, barracks, mosque, etc.) shall be covered by a separate manual (or manuals) consisting of all data pertaining to the equipment and/or systems within that facility. Identical equipment within a single major system shall require only one submittal of data. The Contractor shall furnish all O&M manuals to the Contracting Officer not less than [ninety (90)] [_____] calendar days prior to contract completion. Required number of submittals (number of sets) shall be as specified in Section 01330 SUBMITTAL PROCEDURES.

1.33.4 Supplemental Submittals of Data

After initial submittal of O&M manuals and until final acceptance of all equipment, the Contractor shall prepare and deliver to the Contracting Officer supplemental technical data as previously described for all changes, modifications, revisions and substitutions to equipment and components. For equipment or systems introduced into the contract under change order, or modified by change order, supplemental data shall be furnished within forty-five (45) calendar days after issuance of Notice to Proceed for the change order. The supplemental data furnished shall be properly prepared and identified for insertion into the O&M manuals.

1.33.5 Framed Instructions for Systems

Approved wiring and control diagrams showing the complete layout of the entire system, including equipment, piping, valves and control sequence, framed under glass or in approved laminated plastic, shall be posted, where applicable, in all mechanical equipment rooms. In addition, detailed operating instructions explaining safe starting and stopping procedures for all systems shall be prepared in typed form along with the inspections required to insure normal safe operations. The instructions shall be framed as specified above for the wiring and control diagrams and posted beside the diagram. Proposed diagrams, instructions, and other sheets shall be submitted for approval prior to posting. Operating instructions shall be posted before acceptance testing of the systems and verified during acceptance testing.

1.33.6 Additional Submittals/Resubmittals

The Contracting Officer reserves the right to determine whether the above specified information, as furnished by the Contractor, is adequate and complete and to require such additional submittals by the Contractor as necessary to insure that adequate information has been furnished to provide the satisfactory operation and maintenance of the various items of equipment and to fulfill the intent of the specifications. Additional submittals or resubmittals supplementing incorrect or incomplete data shall be made within thirty (30) calendar days after receiving notice by the Contracting Officer. All costs arising from these resubmissions shall be

borne by the Contractor.

1.34 OPERATION AND MAINTENANCE SUPPORT INFORMATION (OMSI [ALTERNATE 1])

1.34.1 General Requirements

1.34.1.1 Description of Manuals.

The purpose of the work is to provide OMSI manuals that contain detailed, as-built information that describes the efficient, economical and safe operation, maintenance, and repair of the subject facility. The OMSI manuals are to be factual, concise, comprehensive and written to be easily used by operation and maintenance personnel. Descriptive matter and theory must include technical details that are essential for a comprehensive understanding of the operation, maintenance and repair of the system. The Contractor and its Contractor Quality Control (CQC) organization shall ensure that OMSI manuals reflect changes to systems and equipment made during construction. The words system, systems, and equipment, when used in this document, refer to as-built systems and equipment.

1.34.1.2 Organization of Manuals

The Contractor shall prepare the OMSI manuals in three parts:

- Part I - Facility Information
- Part II - Primary Systems Information
- Part III - Product Data

Cross referencing within or between OMSI manuals must be specific.

1.34.1.3 Metric Manuals

All measurements and units shall be in SI (System International) metric units exclusively.

1.34.1.4 Requirements

The requirements contained herein are in addition to all shop drawing submission requirements stated in other sections of the specifications. The Contractor shall include provisions for obtaining the data required below in all purchase orders and sub-contract agreements issued under this contract. The Contractor shall obtain that data which is required to operate and maintain all items of equipment and all systems/subsystems under either normal or emergency operating conditions.

1.34.1.5 Government Acceptance

Government acceptance of equipment, materials, or products required to be included within an OMSI Manual, will be held in abeyance pending receipt and approval of the manual or portion of the manual associated with that piece of equipment.

1.34.2 OMSI Part I - Facility Information

1.34.2.1 General Facility and System Description

Describe the function of the facility. Detail the overall dimensions of the facility, number of floors, foundations type, and expected number of occupants. List and generally describe all the facility systems listed in

OMSI Part II - Primary Systems Information and any special building features (for example , cranes, elevators, and generators). Include photographs, marked up and labeled to show key operating components and the overall facility appearance.

1.34.2.2 Project Criteria

Summarize the criteria that shows the basic scope of work, assumptions and intentions of the Contractor in complying with the project design.

1.34.2.3 Safety Hazards

In accordance with EM 385-1-1 entitled Safety and Health Requirements Manual, list all residual hazards identified in the Activity Hazard Analysis as prepared by the Contractor. Provide recommended safeguards for each identified hazard.

1.34.2.4 Floor Plans

Provide uncluttered, legible 275 mm by 425 mm floor plans. Exact copies of the design plans are not acceptable. Include only room numbers, type or function of spaces, and overall facility dimensions on the floor plans. Do not include construction instructions, references, frame numbers, etc.

1.34.2.5 Utility Connection and Cutoff Plans

Provide utility site and floor plans that indicate the exterior and main interior connection and cutoff points for all utilities. Include enough information to enable someone unfamiliar with the facility to quickly locate the connection and cutoff points. Do not include items such as contour lines, elevations, and subsurface information on the site plans. Indicate the room number, panel number, circuit breaker, valve number, etc., of each connection and cutoff point, and what that connection or cutoff point controls. These plans are in addition to the Floor Plans.

1.34.2.6 Extended Warranty Information

List all warranties for products, equipment, components, and sub-components whose duration exceeds one year. Cross reference the list to the warranty copies included in OMSI Part II - Primary Systems Information or in Part III - Product Data. For each warranty listed, indicate the applicable specification section, duration, start date, end data, and the point of contact for warranty fulfillment. Also, list or reference all specific operation and maintenance procedures that must be performed to keep the warranty valid.

1.34.2.7 Equipment Listing

Provide a table that lists the major equipment shown on the equipment schedules. Show the item descriptions, locations, model numbers, and the names, addresses, and telephone numbers of the manufacturers, suppliers, Contractors, and subcontractors.

1.34.2.8 HVAC Filters

Provide a table that lists the quantity, type, size, and location of each HVAC filter.

1.34.2.9 Floor Coverings

Provide a table that lists by room number (including hallways and common spaces), the type of space, type of floor covering and area of floor. The table will include a facility summary of the total area for each type of space and floor covering.

1.34.2.10 Wall surfaces

Provide a table that lists by room numbers (including hallways and common spaces), the type of wall surface, and area of wall surface. The table shall include a facility summary of the total area for each type of wall surface.

1.34.2.11 Ceiling Surfaces

Provide a table that lists by room number (including hallways and common spaces), the type of ceiling surface, and area of ceiling surface. The table shall include a facility summary of the total area for each type of ceiling surface.

1.34.2.12 Windows

Provide a table that lists by room number (including hallways and common spaces), the type of window, window size, number of each size and type, and any special features. The table will include a facility summary of the total number for each type and size of window.

1.34.2.13 Lighting Fixtures

Provide a table that lists by room number (including hallways and common spaces), the type and voltage of the lighting fixture, number of lighting fixtures, type of bulbs or tubes, and number of bulbs and tubes. The table will include a facility summary of the total number of fixtures of each type and number of bulbs or tubes of each type.

1.34.2.14 Plumbing Fixtures

Provide a table that lists by room number, the number and type of plumbing and bathroom fixtures (for example, sinks, water closets, urinals, showers and drinking fountains).

1.34.2.15 Roofing

Provide the total area of each type of roof surface and system. Provide the name of the roofing product and system, manufacturer's, supplier's, and installer's names, addresses, and telephone numbers. For each type of roof, provide a recommended inspection, maintenance and repair schedule that details checkpoints, frequencies, and prohibited practices. List roof structural load limits.

1.34.2.16 Supply Inventory Requirements

Provide a six (6) month, one (1) and two (2) year list of maintenance and repair supplies (for example, spare parts, fuels, lubricants) required to ensure continued operation without unreasonable delays. Identify and list parts and supplies that have long purchase lead, or delivery times.

1.34.2.17 As-built Drawing List

Provide a list of the as-built drawings. Include drawing number and title.

1.34.2.18 Training Requirements

Provide a list of recommended training related to the operation, maintenance and repair of each installed system that is available from the manufacturer or other source. Provide the name, address, and phone number of point of contact. The training requirements shall pertain only to systems listed in OMSI Part II - Primary Systems Information.

1.34.2.19 Skill Matrix

Provide a matrix by system and skill that identifies productive hours required to maintain the facility's systems listed in OMSI Part II - Primary Systems Information. An example of the format follows:

| | Hours | | |
|--------------------------|----------|----------|----------|
| | System 1 | System 2 | System 3 |
| <u>Skill required</u> | | | |
| <u>Skill 1</u> | | | |
| <u>Skill 2</u> | | | |
| <u>Skill 3</u> | | | |
| <u>Skill 4</u> | | | |
| <u>Total/ System</u> | | | |

1.34.3 OMSI Part II - Primary Systems Information

1.34.3.1 General

The Contractor shall develop and provide the data beyond separate equipment items necessary to operate and maintain all architectural, civil, mechanical and electrical systems for each building, each plant, and/or each distribution or collection system. A system is defined as a group of equipment items related in purpose and which share electrical power or communication circuits as in a fire alarm system, or which share mechanical piping or ductwork as in an HVAC system or materials which provide a singular function such as VCT floor tiles, acoustical ceiling tile system, etc. OMSI data for systems shall be submitted as described hereinafter. This approach requires that consideration be given to the entire system (that is, the interfaces of equipment, connections, and material flow within the system). The Contractor shall use Notes, Cautions, and Warnings throughout the OMSI Part II - Primary Systems Information to emphasize important and critical instructions and procedures. Place notes, cautions, and warnings immediately before the applicable instructions or procedures. Notes, cautions and warnings are defined as follows:

Note: Highlights an essential operating or maintenance procedure, condition or statement.

Caution: Highlights an operating or maintenance procedure, practice, or condition, statement, etc., that, if not strictly observed, could result in damage to or destruction of equipment, loss of mission effectiveness, or health hazards to personnel.

Warning: Highlights an operating or maintenance procedure, practice, condition, or statement, etc., that, if not strictly observed, could result in injury to, or death, of personnel.

1.34.3.2 Preparation and Organization of Systems OMSI Manuals

For each location and for each system installed, the Contractor shall prepare and provide the required number of sets of separate complete system OMSI Manuals, bound in post type loose leaf binders as indicated in paragraph SUBMITTALS. These manuals will provide the basic information and direction needed by journeymen operators to effectively operate each system and by journeymen maintenance technicians to perform Preventive Maintenance (PM) and Corrective Maintenance (CM) routines on systems components. The following identification shall be printed on the cover and spine of each binder, the words "OPERATING AND MAINTENANCE INSTRUCTIONS", plus name of the system, and the location of the facilities. When two or more binders are required for the data, for an individual system, the binder shall be marked 1 of n, 2 of n, 3 of n, etc. (where n equals the total number of binders). Each manual shall have a complete index page(s) which shall be inserted after the title page of the first volume of that system. Title page shall include name of project and contract number. Each binder shall have a complete index that lists all the information and data contained in the binder(s).

- a. Each piece of equipment and system will have a divider and tab properly identified.
- b. Each section for each piece of equipment will have a divider and tab properly identified.

1.34.3.3 OMSI Part II Manual

The OMSI Part II Manual shall include, but not necessarily be limited to, the following:

- a. Operation.
 1. System Description. Provide a detailed narrative of the system composition and operation and principles of operation. Include technical details that are essential for an understanding of the system.
 2. Start-Up Shutdown and Post-shutdown Procedures. Provide step by step instruction to bring systems from static to operational configurations and from operating to shutdown status. Provide narrative description for each operating procedure including the control sequence for each.
 3. Normal Operating Instructions. Provide a discussion/narrative description of the normal operation and control of the system. Address operating norms (for example, temperatures, pressures, and flow rates) expected at each zone or phase of the system. Supplement the narrative with control and wiring diagrams and data

to explain operation and control of specific equipment.

4. Emergency Operating Instructions. Include emergency procedures for equipment malfunctions to permit a short period of continued operation or to shut down the equipment to prevent further damage to systems and equipment. Include emergency shutdown instructions for fire, explosion, spills, or other foreseeable contingencies. Provide guidance on emergency operations of all utility systems including valve locations and portions of systems controlled.

5. System Flow Diagrams. Provide a flow diagram indicating system liquid, air (do not include ductwork) or gas flow during normal operations. Provide flow diagrams showing point-to-point connections, sequence of operation, control diagrams and identification of each system component. A compilation of non-integrated, flow diagrams for the individual system components are not acceptable.

6. Diagrammatic Plans. Provide floor plans indicating the location of equipment and configuration of the system installation. Include the configuration of associated piping or wiring. Subordinate structural features to utility features.

7. Environmental Considerations. Provide a listing of the equipment that requires special operation, report testing, analysis or inspection to comply with federal, state, or local environmental laws. Examples of possible list items include back flow preventer inspections, underground storage tank testing, hazardous material or waste usage and storage documentation, and air pollution control devices. Each item in the list will include requirements for environmental operation, reporting, testing, analysis, and inspection as well as references to respective implementing regulations, statutes, or policies. The OMSI manuals shall include all requirements needed to comply with the environmental Final Governing Standards (FGS) for Bahrain.

8. Field Test Reports. Provide Field Test Reports (SD-09) system test reports and certification that apply to equipment associated with the system.

9. Operator Servicing Requirements. Provide instructions for services to be performed by the operator such as lubrication, adjustments, and inspection.

10. Safety Instructions. Provide a list of all personnel hazards and equipment safety precautions including a recommended safeguards.

11. Valve List. Provide a list of all valves associated with the system. Show valve type, identification number, function, location, and normal operating position.

12. Operating Log. Provide forms, samples, and instructions for keeping necessary operating records.

13. Electrical single line and three (3) line diagrams in sufficient detail to define the system and operation of related parts.

14. Final balancing reports for air, water, and other systems as applicable. (These may be added to the manual after installation testing is completed and accepted.)

15. Operating procedures including pre-start, start-up, normal operation, emergency operation, normal and emergency shut-down.

16. Schedules including valve schedules, circuit breakers schedules, equipment schedules, etc.

17. List of special tools and test and calibration equipment.

18. List of systems components cross referenced to the OMSI equipment data volume number.

b. Preventive Maintenance

1. Preventive Maintenance Plan and Schedule. Provide a Preventive Maintenance (PM) plan based on manufacturer's recommendations and established engineering practice. Include all pieces of equipment. Provide a check sheet that details maintenance tasks and associated frequencies. Also provide an annual schedule indicating when maintenance tasks should be performed such that work is spread as evenly as possible throughout the year.

2. Preventive Maintenance Procedures. Provide a Task Card for each individual maintenance task identified on the PM Plan and Schedule. Include detailed PM procedures, safety instruction and precautions including Lock out/tag out precautions, required skill level, number of personnel needed, frequency, special tools needed, parts needed, and estimated time required to complete the task.

3. Lubrication Schedule. Provide a lubrication schedule indicating types, grades, and capacities of lubricants for specific temperature ranges and applications.

4. Preventive Maintenance Log. Provide a tabular form for recording the accomplishment of PM. Log must be able to record date PM was performed, findings, action taken, parts used, time required to complete the work, and other data necessary to provide a good historical record of PM activities performed.

5. System preventative maintenance procedures and schedules.

6. System troubleshooting guides.

7. System corrective maintenance procedures.

8. Folded-up copy of the system's framed instructions and wall charts (Training instructions).

c. Repair

1. Troubleshooting Guides and Diagnostic Techniques. Provide step by step procedures for isolating the cause of system malfunctions. The procedures shall clearly state indications or

symptoms of trouble; the sequential instruction, including checks and tests to be performed and conditions to be sought, to determine the cause, and remedial measures to bring the equipment and system to operating condition. Identify special test equipment required to perform the procedures. Start the troubleshooting guide at the system level and proceed to a level where detailed manufacturer's troubleshooting procedures for equipment and components can be referenced.

2. Repair Procedures. Provide repair instructions required to restore equipment to proper operating standards. References must be specific as to location within the OMSI manuals.

3. Removal and Replacement Instructions. Provide or refer to the manufacturer's data for the instructions on the removal and replacement of equipment components. References must be specific as to location within the OMSI manuals.

d. Manufacturer's Data

1. Operation and Maintenance Data. Include the Operation and Maintenance Data Package information per paragraph [1.34.4.1] entitled Operation and Maintenance (O&M) Data Packages. Incorporate this information into each system discussion under the Operation, Preventive Maintenance and Repair sections of Part II - Primary Systems Information.

2. Manufacturer's Equipment Information. Provide drawings, illustrations and product data furnished by the manufacturer for the equipment and system components. Organize and index the information for easy reference.

1.34.4 OMSI Part III - OMSI Product Data

The Contractor shall provide all data necessary to operate and maintain all equipment purchased and/or installed under this contract. Provided below are examples for which the Contractor is required to submit OMSI data. The examples provided are not definitive for this contract, but are provided to indicate the general types of equipment for which OMSI data is required.

| | |
|--------------------|---------------------------|
| Control Devices | Motor Generator Sets |
| Lighting Fixtures | Cooling Towers |
| Valves | Shop Equipment |
| Air Conditioners | Kitchen Equipment |
| Motors | Exhaust Fans |
| Water Heaters | Plumbing Fixtures |
| Compressors | Appliances (e.g. washing |
| Boilers | machines, food disposers, |
| Chillers | coffee urns, etc.) |
| Stucco and Plaster | VCT Tiles |
| Treatments | |
| Acoustical Ceiling | |
| Grid/Tiles | |

OMSI Product Data shall provide a record of all material and equipment product data incorporated into the construction of each facility.

Examples of product data include manufacturer's catalog data, Field Test Reports and warranty sheets. Include shop drawings relevant to the

operation and maintenance of the facility or system except those used in Part II - Primary Systems Information, OMSI manuals for equipment should be included and separately tabbed within the specification section. Do not include extraneous data, (for example, transmittal sheets, certifications, welder qualifications, Contractor qualifications and certificates of compliance). Highlight or note submittals that contain information on several parts or model numbers to identify installed material. Product data included in Part III - Product Data, should use metric units.

1.34.4.1 Operation and Maintenance (O&M) Data Packages

- a. The type of Product Data needed for any system, or piece of equipment depends upon the complexity of that item. Data Package 1 would typically be used for architectural items requiring simple but specific maintenance and replacement; for example, acoustical ceiling, floor tile or carpeting systems. Data Package 2 would be used for an item that is less simple; for example, an item having a motor and some sequence of operation such as a refrigerated drinking fountain. Data Package 3 would be used for a complex piece of equipment, having a specific troubleshooting sequence, but one which does not require and operator on watch; for example, HVAC temperature controls. Data Package 4 would be used for an extremely complex piece of equipment, having an extensive sequence of operation, a complex troubleshooting sequence and one requiring frequent operator attention; at least for start-up and shut-down. Examples of this case would be small boilers and small diesel generator sets. Finally, Data Package 5 would be used for electrical equipment, components or systems on which, wiring and control diagrams are needed for operation, maintenance or repair. Examples of this case are 400 Hz frequency converters, annunciator panels and cathodic protection systems.
- b. The Contractor shall perform an extensive review of each specification section and its associated drawings and shall prepare Operation and Maintenance Data Packages as follows:
 1. Data Package 1
 - (a) Safety precautions
 - (b) Maintenance and repair procedures
 - (c) Contractor information
 2. Data Package 2
 - (a) Safety precautions
 - (b) Normal operations
 - (c) Environmental conditions
 - (d) Lubrication data
 - (e) Preventive maintenance plan and schedule
 - (f) Maintenance and repair procedures
 - (g) Removal and replacement instructions

- (h) Spare parts and supply list
 - (i) Parts identification
 - (j) Warranty information
 - (k) Contractor information
3. Data Package 3
- (a) Safety precautions
 - (b) Normal operations
 - (c) Emergency operations
 - (d) Environmental conditions
 - (e) Lubrication data
 - (f) Preventive maintenance plan and schedule
 - (g) Troubleshooting guides and diagnostic techniques
 - (h) Wiring diagrams and control diagrams
 - (i) Maintenance and repair procedures
 - (j) Removal and replacement instructions
 - (k) Spare parts and supply list
 - (l) Parts identification
 - (m) Warranty information
 - (n) Testing equipment and special tool information
 - (o) Contractor information
4. Data Package 4
- (a) Safety precautions
 - (b) Operation pre-start
 - (c) Start-up, shutdown and post-shutdown procedures
 - (d) Normal operations
 - (e) Emergency operations
 - (f) Operator service requirements
 - (g) Environmental conditions
 - (h) Lubrication data

- (i) Preventive maintenance plan and schedule
- (j) Troubleshooting guides and diagnostic techniques
- (k) Wiring diagrams and control diagrams
- (l) Maintenance and repair procedures
- (m) Removal and replacement instructions
- (n) Spare parts and supply list
- (o) Corrective maintenance man-hours
- (p) Parts identification
- (q) Warranty information
- (r) Personnel training requirements
- (s) Testing equipment and special tool information
- (t) Contractor information

5. Data Package 5

- (a) Safety precautions
- (b) Operator pre-start
- (c) Start-up, shutdown and post shutdown procedures
- (d) Normal operations
- (e) Environmental conditions
- (f) Preventive maintenance plan and schedule
- (g) Troubleshooting guides and diagnostic techniques
- (h) Wiring and control diagrams
- (i) Maintenance and repair procedures
- (j) Spare parts and supply list
- (k) Testing equipments and special tools
- (l) Warranty information
- (m) Contractor information

1.34.4.2 Types of Information Required in O&M Data Packages

For each equipment or material item O&M data shall be submitted as described hereinafter. For identical pieces of equipment installed within any one system, only one (1) file of OMSI data for the equipment item will be required for maintenance purposes. Deviation from these requirements will require approval of the Contracting Officer. The data as a minimum

shall include for each equipment item, the following:

a. General

1. Equipment OMSI Data Sheet. Shall include the equipment name, manufacturer's name and address, model number, (including characteristics and any special remarks), and the serial number(s), tag number(s), or any user assigned identification number(s), and installed location(s) of the equipment. This sheet shall be the first page of each item of equipment OMSI data package and shall contain a checklist covering items from the following paragraphs:

- [1.34.4.2.b Operating Instructions]
- [1.34.4.2.c Preventive Maintenance]
- [1.34.4.2.d corrective Maintenance (Repair)]

2. Equipment Description. Shall include item name, model number, serial number, equipment price (FOB Manufacturer), electrical and/or mechanical characteristics, manufacturer's name and address, order number and all other data found on the equipment name plates. Include local/regional representative of manufacturer, name, address, telephone number, and telex number.

3. Component and assembly Drawings/Master Parts List. Shall contain exploded views and a master parts list clearly identifying all parts and subassemblies by manufacturer's part number. Master Parts list shall also include the price for each part (FOB Manufacturer) and effective date.

4. Control Diagrams and Sequences of Operations. Shall include operating instructions (including normal start-up, normal shut-down and emergency shut-down as applicable).

5. Performance Characteristics. Shall include performance curves for full range of operation, and data pertinent to characteristics of equipment provided.

6. Installation Instructions. Shall include adjustment and alignment procedures, checkout procedures and test procedures.

7. Special Items. The Contractor shall prepare a list of special tools, test equipment, and safety precautions when specified in the TECHNICAL PROVISIONS and special items that are normally provided by the manufacturer with the equipment. The list shall also include the current unit price and date for each item (FOB MANUFACTURER).

8. Record of Material and Equipment. Provide a copy of the product data used in the facility construction. Examples of product data include manufacturer's catalog data, field test reports and warranty sheets. Include shop drawings relevant to the operation and maintenance of the facility or system except those used in Part II - Primary Systems Information, OMSI manuals for equipment should be included and separately tabbed within the specification section. Do not include extraneous data, (for example, transmittal sheets, certifications, welder qualifications, Contractor qualifications and certificates of compliance). Highlight or note submittals that contain

information on several parts or model numbers to identify installed material. Product data included in Part III - Product Data, should use metric units.

9. Parts Identification. Provide identification and coverage for all parts of each component, assembly, subassembly, and accessory of the end items subject to replacement. Include special hardware requirements, such as required to use high-strength bolts and nuts. Identify parts by make, model, serial number, and source of supply to allow reordering without further identification. Provide clear and legible illustrations, drawings, and exploded views to enable easy identification of the items. When illustrations omit the part numbers and description, both the illustrations and separate listing shall show the index, reference, or key number which will cross-reference the illustrated part to the listed part. Parts shown in the listings shall be grouped by components, assemblies, and subassemblies. Parts data may cover more than one (1) model or series of equipment, component, assemblies, subassemblies, attachments, or accessories, such as a master parts catalog, in accordance with the manufacturer's standard commercial practice.

10. Warranty Information. Provide copies of equipment extended warranties. List and explain the various warranties and include the servicing and technical precautions prescribed by the manufacturers or contract documents to keep warranties in force. Include warranty information for primary components such as the compressor of air conditioning system.

11. Personnel Training Requirements. Provide information available from the manufacturers to use in training designated personnel to operate and maintain the equipment and systems properly.

12. Testing Equipment and Special Tool Information. Include information on test equipment required to perform specified tests and on special tools needed for the operation, maintenance, and repair of components.

13. Contractor Information. Provide a list that includes the name, address, and telephone number of the General Contractor and each subcontractor installing the product or equipment. Include local representatives and service organizations most convenient to the projects site. Provide the name, address, and telephone number of the product or equipment manufacturers.

- b. Operating Instructions. Include specific instructions, procedures, and illustrations for the following phases of operation:

1. Safety Precautions. List personnel hazards and equipment or product safety precautions for all operating conditions.

2. Operator Pre-start. Include procedures required to set up and prepare each system for use.

3. Startup, Shutdown and Post-shutdown Procedures. Provide narrative description for each operating procedure including control sequence for each.

4. Normal Operations. Provide narrative description of normal operating procedures. Include control diagrams with data to explain operation and control of systems and specific equipment.
 5. Emergency Operations. Include emergency procedures for equipment malfunctions to permit a short period of continued operation or to shut down the equipment to prevent further damage to systems and equipment. Include emergency shutdown instructions for fire, explosion, spills, or other foreseeable contingencies. Provide guidance on emergency operations of all utility systems including valve locations and portions of systems controlled.
 6. Operator Service Requirements. Include instructions for services to be performed by the operator such as lubrication, adjustment, inspection and gauge reading recording.
 7. Environmental Conditions. Include a list of environmental conditions (temperature, humidity and other relevant data) which are best suited for each product or piece of equipment and describe conditions under which equipment should not be allowed to run.
- c. Preventive Maintenance. Preventive maintenance procedures shall include inspection, cleaning, adjustment and service. A schedule shall be furnished for each piece of equipment listing manufacturer's schedule for routine preventive maintenance, inspections, tests and adjustments required to ensure proper and economical operation and to minimize corrective maintenance and repair. Provide manufacturer's projection of preventive maintenance work-hours on a daily, weekly, monthly, and annual basis including craft requirements by type of craft. For periodic calibrations, provide manufacturer's specified frequency and procedures for each separate operation. Preventive maintenance schedules shall take into account operating conditions in Bahrain. Include lubrication data, other than instructions for lubrication in accordance with paragraph OPERATOR SERVICE REQUIREMENTS:
1. A table showing recommended lubricants for specific temperature ranges and applications;
 2. Charts with a schematic diagram of the equipment showing lubrication points, recommended types and grades of lubricants, and capacities; and
 3. A lubrication schedule showing service interval frequency.
- d. Corrective Maintenance (Repair). Corrective maintenance procedures shall include instructions for troubleshooting, repair, overhaul and calibration.
1. Troubleshooting Guides and Diagnostic Techniques. Include step-by-step procedures to promptly isolate the cause of typical malfunctions. Describe clearly why the checkout is performed and what conditions are to be sought. Identify tests or inspections and test equipment required to determine whether parts and equipment may be reused or required replacement.

2. Wiring Diagrams and Control Diagrams. Wiring diagrams and control diagrams shall be point-to-point drawings of wiring and control circuits including factory-field interfaces. Provide a complete and accurate depiction of the actual job specific wiring and control work. On diagrams, number electrical and electronic wiring and pneumatic control tubing and the terminals for each type, identically to actual installation numbering.

3. Maintenance and Repair Procedures. Include instructions and list tools required to restore product or equipment to proper condition or operating standards.

4. Removal and Replacement Instructions. Include step-by-step procedures and list required tools and supplies for removal, replacement, disassembly, and assembly of components, assemblies, subassemblies, accessories and attachments. Provide tolerances, dimensions, settings and adjustments required. Instructions shall include a combination of text and illustrations.

5. Corrective Maintenance Work-Hours. Include manufacturer's projection of corrective maintenance work-hours including craft requirements by type of craft. Corrective maintenance that requires participation of the equipment manufacturer shall be identified and tabulated separately.

6. Recommended Spare Parts List. Separate lists containing the manufacturer's recommendation for two (2) years, one (1) year, and six (6) months spare parts stock levels for operating conditions in Bahrain. Current unit price and effective date, lead time, shelf life for each individual part, and total cost of all recommended parts shall be furnished.

1.34.5 Framed Instructions for Systems

For each system, the Contractor shall provide framed instructions mounted on the wall of each mechanical and electrical equipment room which contains a portion of the system. The size of the framed instructions will be governed by the content to be framed plus room for a minimum of two (2) inch border. Framed instructions shall be on acid free paper with permanent (non-fading) markings. The framed instructions shall include drawings and typed narrative descriptions as required to provide the following information:

1.34.5.1 Drawings

Drawings containing flow, piping, instrumentation and control diagrams of mechanical systems and wiring and control schematics of electrical systems contained within or controlled from that equipment room.

1.34.5.2 Narrative of Procedures

Narrative containing equipment and system normal pre-start, start-up, operating and shut-down procedures.

1.34.5.3 Narrative of Emergency Procedures

Narrative of emergency shut-down instructions and safety precautions, including but not necessarily limited to the following: Emergency procedures for equipment malfunctions to permit a short period of continued

operation or to shut down the equipment to prevent further damage to systems and equipment. Include emergency shut-down instruction for fire, explosion, spills, or other foreseeable contingencies. Provide guidance on emergency operations of all utility systems including valve locations and portions of systems controlled.

1.34.5.4 Preparation and Installation of Framed Instructions

Preparation and installation of Framed Instructions. All material prepared for use as framed instructions to meet the requirements of paragraph 1.34.5.2 above shall be prepared in the English language. All material prepared for use as framed instructions to meet the requirement of paragraph 1.34.5.3 above shall be prepared in English. Drawings and narratives prepared for use as framed instructions shall be submitted to the Contracting Officer for approval prior to posting. Framed instructions shall be mounted using frames with glass or rigid plastic covers as approved by the Contracting Officer. All framed instructions must be posted before final acceptance testing of the equipment and systems.

1.34.6 Format

1.34.6.1 General Preparation of OMSI Data for Each Equipment Item

All data shall be prepared in the English language. Each item of equipment shall be cross referenced to include installation location using the Contractor's system of identification as approved by the Contracting Officer. At least two sets of the furnished copies of printed and prepared data shall be of original quality. All data shall be presented on 8-1/2 x 11 inch sheets to the greatest possible extent. Foldouts will normally be limited to 11 x 17 inch sheets. For other sets of data, reproductions shall be clear, legible, re-reproducible, and not subject to fade. Extraneous information on inapplicable models or components shall be removed or suitably marked out. Each volume shall be identified by the equipment name as shown on the Equipment OMSI Data Sheet, and sequentially numbered. Each volume shall include an index of items included in the binder and the index shall be the first sheet in the binder, and all remaining data shall be taped accordingly. Volume binders shall be packed (maximum) 2/3 full to allow easy access to contents.

1.34.6.2 Binders

Bind the OMSI manuals in durable, hard cover, water and grease resistant post time catalog/manual binders (style similar to FSN 7510-00-889-3520), which hold 8-1/2 by 11 inch (297 by 210 mm) sheets. Binders shall have clear pockets located on the front and on the spine that hold printed sheets.

- a. Facility Information Binder. Bind the Part I - Facility Information in a white post type, loose leaf binder of appropriate size.
- b. Primary Systems Information Binders. Bind the Part II - Primary Systems Information in blue, post type, loose leaf binders of three inch capacity. More than one system may be included in a single binder provided that all sections of each system are included in that binder.
- c. Product Data Binders. Bind the Part III - Product Data in red, post type, loose leaf binders of three inch capacity.

- d. Identify each binder on both the cover insert sheet and the spine insert sheet with the following information.
 1. OMSI Manual Part I, II, or III with appropriate titles
 2. Building Number
 3. Project Title
 4. Activity and Location
 5. Construction Contract Number
 6. Prepared For: Transatlantic Programs Center, Winchester, Virginia
 7. Prepared By: [_____]
 8. Volume Number. Each binder is a single volume. Number each volume consecutively. For example, an OMSI composed of 5 binders would have the Part I - Facility Information binder labeled volume 1 of 5 and the last Part III - Product Data binder would be volume 5 of 5.

1.34.6.3 Pages, Divider and Tabs

Use high quality paper and dividers made of heavy duty paper with plastic reinforced holes and integrated tabs.

- a. Facility Information Divider. Use white tabs to identify the major items.
- b. Primary Systems Information Dividers. Fuse blue tabs with bold type to identify the system titles. Use dividers with white tabs to identify the different sections under each system and the major topics under each section.
- c. Product Data Dividers. Use white tabs to show the Division number and title. Use dividers with colored tabs to identify the specification section number with key words to identify the section title. Use colored non-tab dividers to separate large equipment groupings such as valves, pumps, chillers, and to separate the OMSI data within each specification section.

1.34.6.4 Oversized Sheets

Insert oversized sheets into the binders as single fold-out sheets. Oversized sheets are defined as submittals, instruction sheets, drawings, etc., larger than 8-1/2 x 11 inch, but not exceeding 11 by 17 inch. Oversized sheets shall be folded to expose the sheets title block. Submittals or drawings exceeding 11 by 17 inch, which cannot be reduced, may be inserted in labeled, clear plastic pockets.

1.34.6.5 Preface

Insert a preface sheet in the front of each volume, following a copy of the cover insert sheet. No tab sheet is to be used with the Preface sheet. Include the following information in the Preface.

"Preface"

Introduction

Operational and Maintenance Support Information (OMSI) was prepared for this project to help you operate, maintain, and repair the facility over its life cycle. OMSI manuals provide a comprehensive, organized library of as-built materials, equipment and systems. Use the OMSI manuals as the first step in solving your operation, maintenance or repair problems. Your comments or suggestions are welcome and should be forwarded to: Commander, LANTNAVFACENGCOM, 1510 Gilbert Street, Norfolk, Virginia 23511-2699, Attn: Code 1614. Telephone (804) 322-4647, Fax (804) 322-4715.

Contents

OMSI Part I - Facility Information. This portion of the OMSI manuals contains Basic User Information needed on a daily basis by the owner or tenant of the facility. Examples: General Facility and System Descriptions, Utility Connection and Cut-off Plans, Safety Hazards, Warranty Information. It also provides the information you need to quickly prepare Maintenance Service Contracts and Performance Work Statements for O&M and Custodial Service Contracts. Examples of this information area totals for floor coverings, wall and ceiling surfaces, number, types, and sizes of lighting fixtures, bathroom fixtures, windows, and HVAC filters.

OMSI Part II - Primary Systems Information. This portion of the OMSI manuals provides detailed operation, preventive maintenance, repair, and manufacturer's data for each system selected. This information includes items such as normal and emergency operating procedures, flow diagrams, PM requirements, spare parts, troubleshooting, repair procedures, and warranty provisions. You can expect better PM, faster repairs, and reduced down time by using information in this part of the OMSI manuals.

OMSI Part III - Product Data. This portion of the OMSI manuals consists of construction Contractor submittals for as-built materials and equipment such as manufacturer's catalog data, shop drawings, test data, and Operation and Maintenance Data not included in Part II. Part III is organized by the divisions and sections of the construction specifications. For example, if you want to find information about the sprinkler system alarm valves, you would look under Division 15 "Mechanical", and product installed, part number, manufacturer, etc. Part II also includes architectural product information for items such as ceiling tile, carpeting, plumbing, and lighting fixtures. This information will keep your facility looking sharp for many years through product-specific maintenance and replacement of its' architectural features.

Updating

The OMSI manuals must reflect the facility's existing components; therefore, you must continually update the manuals. When equipment or components are replaced, add pertinent new information to each manual set. Be sure to update all sections of the OMSI manuals that reference the replaced item. Purge all information on the replaced item to prevent confusion."

1.34.6.6 Table of Contents

Provide a Master Table of Contents for the entire set of OMSI manuals.

Place the Master Table of Contents after the Preface sheet of each volume. Provide a specific Table of Contents for Part I - Facility Information, for each system in Part II - Primary Systems Information, and for each division and section of Part III - Product Data.

1.34.6.7 Contractor Responsibility for Updating OMSI Information

The Contractor shall be responsible for the accuracy of all information furnished in accordance with the above requirements. The Contractor shall be responsible for updating or supplementing all OMSI data, including data which has been previously submitted, to reflect changes in the contract or to correct errors discovered by any other means. The OMSI data for separate equipment items, the systems OMSI Manuals, and the framed instructions prepared by the Contractor shall be utilized and verified during installation and testing of the equipment and/or systems and shall be updated and corrected as required. Errors found during systems testing and validation shall be corrected within fourteen (14) calendar days of completion of each test and validation. Drawings, pages of text, etc. of systems OMSI Manuals shall be complete in final form. Marked-up drawings or pages are not acceptable.

1.34.7 Electronic Format OMSI Manuals

The Contractor shall prepare electronic format versions of the OMSI manuals in either Word for WindowsTM format. The Contractor shall provide all the required data for OMSI Manuals Part I - Facility Information and Part II - Primary Systems Information in Word for WindowsTM format. The Contractor shall further provide all drawings, plans, schematic's, diagrams, sketches, figures, and related illustrations in the format native to the latest version in common use of Bentley MicroStation CADD. The Government will only accept the final product for full operation, without conversion or reformatting, in this format. The Contractor shall name and index the files for ease of identification and updating. All files shall be provided on 3-1/2 inch high density disks.

1.34.8 Contractor Quality Control (CQC)

The Contractor shall assign to his CQC staff a Graduate Technical Writer with five (5) years minimum experience in preparation of complex Operation and Maintenance Support Information (OMSI) Manuals. This individual shall be available on site to obtain details and documentation on field changes, to take appropriate photos, document as-built conditions and performance tests, and ensure strict compliance with the requirement of this clause. This individual shall provide a presentation of the OMSI prefinal submittal manuals to Government and other representatives at the construction site. The presentation details how the OMSI manuals are organized, what they contain, how they are referenced and cross referenced, and how to use them in day-to-day operation, maintenance and repair. The Contractor shall video tape this presentation in accordance with Special Clause entitled INSTRUCTIONS AND TRAINING FOR OPERATION AND MAINTENANCE. The OMSI CQC shall field verify the accuracy and completeness of the OMSI manuals. This includes verifying that the systems and equipment in the OMSI manuals accurately reflect the as-built conditions, verifying that O&M procedures are appropriate for the systems and equipment that they support; and verifying that equipment nomenclature and system configurations are accurate. The OMSI CQC shall make corrections and recommend in-scope changes to the OMSI manuals prior to delivery of the final submittal.

1.34.9 Submittals

1.34.9.1 Concept OMSI Submittal

The Contractor shall submit within sixty (60) calendar days following equipment approval by the Government (not to exceed 300 calendar days after Notice to Proceed), two (2) copies of the concept OMSI submittal. The Contractor shall schedule equipment submittals in such a manner as to enable review and approval by the Government prior to [____] [240] days after the Notice-to-Proceed. The purpose of this submittal is to present, for approval by the Contracting Officer, on overall plan for the preparation of the OMSI Manuals. The submittal shall include, but not necessarily be limited to, the following information:

- a. Identify by name all systems that will be addressed in the OMSI manual.
- b. Provide the format and table of contents of the OMSI manuals and include the following:
 1. Sample post type, loose-leaf binder. Show a typical title as it will appear on the front face and also on the spine of the binder.
 2. Proposed divider format with the sample divider and completed tab.
 3. Samples showing the quality of acid free paper and quality of reproduction proposed.
 4. Select one system of moderate complexity and partially develop the various operational and maintenance aspects of the system. This development should have sufficient depth to clearly demonstrate the arrangement and level of detail proposed for all systems that will be included.
 5. A submittal matrix, tailored from the construction submittal matrix, to identify those submittals needed for the preparation of the OMSI manuals. The Contractor shall use the submittal matrix to track submittals needed for the OMSI manuals.

1.34.9.2 Preliminary OMSI Submittal

The Contractor shall submit within 450 calendar days after the Notice to Proceed, two (2) copies of the Preliminary OMSI submittal. This submission shall include the cover sheets, spine, inserts, table of contents, binders, dividers, and other materials as necessary to demonstrate the proposed physical arrangement of the OMSI manuals and the quality of the copies, dividers, and tabs. Present the submittal in sufficient detail to evaluate the data collection and arrangement process. The submittal includes, as a minimum, the following information:

- a. All available Part I - Facility Information.
- b. All systems of Part II - Primary Systems Information. At least one system shall be essentially complete. The remaining systems shall be at least 50% complete.
- c. At least two divisions of Part III, Product Data.

- d. An updated submittal matrix, tailored from the construction submittal matrix, to identify those submittals needed for the preparation of the OMSI manuals. The Contractor shall use the submittal matrix to track submittals needed for the OMSI manuals.

1.34.9.3 Prefinal OMSI Submittal

The Contractor shall submit a minimum of seventy-five (75) calendar days prior to the start of any performance test or training, five (5) copies of the Prefinal OMSI submittal. This submission shall include a copy of the preliminary submittal review comments along with the CQC's response to each item. The Prefinal submittal shall contain all the required information required by this Special Clause.

1.34.9.4 Final OMSI Submittal

The Contractor shall submit a minimum of fourteen (14) calendar days prior to the Beneficial Occupancy Date (BOD), [six (6)][_____] copies of the Final OMSI Manuals to be distributed as follows:

Bahrain Resident Engineer Office, Corps of Engineers
Transatlantic Division, Corps of Engineers
ASU Bahrain
LANTNAVFACENGCOM
Training in accordance with SC entitled INSTRUCTIONS
AND TRAINING FOR OPERATION AND MAINTENANCE
[Facility in accordance with SC entitled OPERATIONS AND MAINTENANCE
(O&M) PERFORMANCE PERIOD]
[_____]

Included with this submission shall be two (2) sets of the Electronic Format OMSI Manuals. The final submittal must address all previous review comments. Prefinal review comments may include problems discovered during the OMSI manuals review, site validation, facility start-up, and performance tests. The comments will be provided the Contractor at various times before and after facility BOD. The complete pre-final OMSI manuals and review comments will be returned to the Contractor for preparation of the final submittal. The final submittal shall include a copy of the pre-final submittal review comments along with a response to each item.

1.34.10 Project Schedule

The Concept, Preliminary, Prefinal, and Final OMSI Submittals shall be entered into the Contractor's Progress Schedule in accordance with the general requirement Section [01320] PROJECT SCHEDULE.

1.34.11 Payment

For payment purposes, preparation and submittal of required OMSI data and framed instructions shall be considered as part of the price for the individual item of equipment. No separate payment will be made for the preparation and submittal of OMSI manuals. In the event the Contractor fails to comply with these requirements or fails to deliver the Concept, Preliminary, Prefinal, or Final OMSI submittal within the stated time limits, the Contracting Officer may withhold payment in accordance with Contract Clause FAR 52.232-5 PAYMENT UNDER FIXED-PRICE CONSTRUCTION CONTRACTS.

1.35 NOT USED

1.36 INSTRUCTIONS AND TRAINING FOR OPERATION AND MAINTENANCE

1.36.1 General

The Contractor shall be responsible for the instruction and training of operating and maintenance personnel as specified below and in the Technical Provisions of the specifications. Unless otherwise indicated in the Technical Provisions, operating and maintenance instructions shall be given for a minimum period as follows:

| <u>Section No.</u> | <u>Title</u> | <u>Duration of Training</u> |
|--------------------|--------------|-----------------------------|
|--------------------|--------------|-----------------------------|

1.36.2 Operation and Maintenance Training

The Contractor shall provide competent instructors for training of personnel designated by the Contracting Officer to operate [mechanical and electrical building systems] [_____] and equipment, perform the required preventive maintenance to minimize breakdown, and to perform necessary repairs when malfunction or breakdown of equipment occurs. Such training shall consist of classroom and on-the-equipment training for the periods specified, which shall be completed prior to acceptance of a system or equipment, as applicable. The instructor(s) shall have no other duties during the period of training. Classroom instruction shall not exceed fifty percent (50%) of the total training time, with the balance devoted to on-the-equipment demonstration and familiarization. Emphasis will be given to both electrical and mechanical features, in accordance with approved training plans.

1.36.3 Arrangements

The training shall be for not less than the periods of time specified, five (5) days per week, and [eight (8) hours per day] [_____] , subject to review and approval by the Contracting Officer. Each individual training session shall be presented one time only, shall be video taped in a television system compatible with the local area, and be scheduled in a manner acceptable to the Contracting Officer. At the completion of training, the video tapes shall become the property of the Government. In addition to the Contractor's requirements to video tape each training section, the Government reserves the right to record, in any manner, the subject training material, or training sessions given by the Contractor, without additional cost to the Government. Recordings obtained will be used in future training by the Government. The operating and maintenance manual data, as specified to be furnished in these Special Clauses, shall be used as the base material for training.

1.36.4 Scheduling

The Contractor shall contact the Contracting Officer for the purpose of preliminary planning, scheduling, and coordination of training, to maximize effectiveness of the training program for available operating and maintenance personnel. The Contractor shall initiate and make arrangements for such contact within [_____] calendar days after receipt of notification of award of contract; and shall include all significant times in scheduling and completing training in his [NETWORK ANALYSIS SYSTEM] [PROJECT SCHEDULE]. The Contractor shall provide a draft training outline sufficient in detail to provide a broad indication of the type of scope of

training to be given. It shall include but not be limited to; (a) a list of subjects to be presented; (b) estimated amounts of classroom and on-the-equipment instruction for each subject; (c) a list of minimum qualifications for instructors; and (d) discussions concerning the types and amounts of visual aids, reference materials, tools and test equipment, mock-up and other training materials that will be employed during training.

1.36.5 Preliminary Plan

The Contractor shall submit [seven (7)] [_____] copies of an outline of his proposed training plan to the Contracting Officer for review and approval not later than [_____] calendar days after Notice to Proceed. The plan will be reviewed and coordinated with the content of the O&M manuals.

1.36.6 Plan

The Contractor shall submit [seven (7)] [_____] copies of his proposed training plan to the Contracting Officer for approval not later than ninety (90) calendar days prior to start of any training. The plan shall include the following; (a) a weekly outline showing overall form and design of training presentation; (b) a day-by-day schedule showing time intervals, the major and subordinate subjects to be covered in each, the name of the instructor(s) and qualification summary of each, and identification of related handouts; (c) summary of the number of hours of classroom and on-the-equipment training; (d) a list of reference materials to be provided by the Contractor to the trainees; and (e) a list and description of the training materials to be used, such as text, visual aids, mock-up, tools, etc. The Contractor shall be responsible for furnishing all training materials except the following: The Government will provide space, chairs, and tables for classroom training, and [three (3)] [_____] sets of the [[seven (7)] [_____] sets of O&M Manuals required by the Contractor per Section 01330 SUBMITTAL PROCEDURES of the specifications. Provision of these manuals is solely for reference purposes, and in no way relieves the Contractor from providing all instruction and materials necessary for training personnel designated by the Government. All costs for resubmission of training plans, training materials, etc., as requested by the Contracting Officer shall be borne by the Contractor. Resubmittals shall be made within twenty (20) days of notice from the Contracting Officer.

1.36.7 Attendance Roster/TAC Form 356

The Contractor shall develop an attendance roster or a similar document indicating each students attendance, prior to the start of each class, subject and/or topic. This includes both "Hands-On" and classroom training. It is strongly recommended that each student trained be required to sign this document at the beginning of each class day for each and every class, subject and/or topic taught on that day. The Contractor's failure to have student attendance verified in writing, may be cause for the Government to order the Contractor to repeat schooling where evidence of attendance can not be verified. No part of the time lost due to such repeat instruction shall be made the subject of claim for extension of time or for excess costs or damage by the Contractor. Within ten (10) working days after completion of Operation and Maintenance Training conducted in accordance with this clause and/or applicable Technical Provision section, the Contractor shall complete and submit TAC Form 356 "Operation and Maintenance Training Validation Certificate". The attendance roster shall be included as an attachment to TAC Form 356.

1.37 OPERATION AND MAINTENANCE (O&M) PERFORMANCE PERIOD

1.37.1 General

Unless otherwise stated elsewhere in this contract:

- a. The work associated with this clause is listed and priced as a separate item in the Proposal Schedule. This option will be exercised through notification by the Government [_____] calendar days prior to implementation of this clause (exercise of option).
- b. The minimum duration of work under this clause shall be for a period of six (6) months and can be extended for two (2) additional three (3) month periods. The Proposal Schedule includes prices for the basic six (6) months period and two (2) succeeding three (3) months option periods.
- c. The work specified in this clause shall begin on the day following the date of final acceptance, of the work on this contract.
- d. All contract provisions under this contract remain in force throughout the Operation and Maintenance periods. However, the work required under this clause is not included in the work which must be finally accepted for reducing the amount of the Bank Letter of Guaranty, or Bond requirements.

1.37.2 Scope

1.37.2.1 General

The Contractor shall provide all labor, materials, parts, supplies and tools for the full operation and maintenance of all plants, systems and equipment, constructed or installed by him, unless otherwise stated elsewhere in this contract. The equipment, systems, plants and/or facilities to be operated and maintained are as follows:

[____(Add information for previous sentence)____]

1.37.2.2 Operation

- a. Operation of equipment shall be in accordance with approved O&M manuals submitted by the Contractor in accordance with Clause [OPERATION AND MAINTENANCE (O&M) DATA FOR EQUIPMENT AND SYSTEMS] [OPERATION AND MAINTENANCE (O&M) DATA].
- b. Operation shall be on a twenty-four (24) hours per day, seven (7) days per week basis with proper staff in attendance at all times.
- c. Operating schedules shall provide for regular maintenance periods in accordance with the manufacturer's recommendations including periodic start-up and shut-down operations.
- d. Operating procedures shall provide for regular and special sampling and testing for control of quality in water, fuel, lubricating oil, etc.
- e. Operating procedures shall provide for maintaining an adequate quantity of operating supplies, fuels, lubricants, chemicals, etc., at all times. Unless otherwise specified, the Contractor

shall leave a six (6) month supply of these materials at completion of these Operations and Maintenance periods.

1.37.2.3 Maintenance

- a. Preventive Maintenance (PM): The Contractor shall perform preventive maintenance inspections and servicing as follows:
 - (1) Perform inspections and services beyond the operator maintenance level as recommended by the manufacturer and at the recommended frequency.
 - (2) Maintain a schedule for PM activities.
 - (3) Maintain a file of completed checklists showing PM functions performed, date and any corrective action.
- b. Repair and Overhaul: The Contractor shall perform services for repair and overhaul as required to maintain those applicable plants, systems and equipment, herein specified in the generally high level of condition they were at the time of final acceptance.
- c. Emergency Repairs: The Contractor shall be prepared to make emergency repairs twenty-four (24) hours a day, seven (7) days a week.
- d. Warranty Service: The Contractor shall be responsible for obtaining warranty service (in accordance with the warranty of construction clauses) from equipment manufacturers as applicable. Work shall not be delayed or remain undone due to conflict of warranty responsibility.
- e. Parts and Supplies: The Contractor shall be responsible for providing and storing all parts and supplies required to operate and maintain equipment. Those parts and supplies used from the supply of spare parts provided under Clause CONTRACTOR FURNISHED SPARE PARTS, must be replaced. All additional parts stored on site and unused at the time of completion of the contract shall become the property of the Government and shall remain stored on site. Upon completion of the O&M period, the Contractor shall deliver all spare parts and materials noted under item "e" of paragraph OPERATION, herein, and any other parts procured for the Operation and Maintenance period to the designated location provided by the Contracting Officer and an inventory shall be taken at that time, in coordination with the Contracting Officer's Representative.
- f. Tools: All Contractor's tools not specified for incorporation into the contract shall remain the property of the Contractor upon completion of the contract.
- g. Housekeeping and Maintenance: The Contractor shall provide within his PM Schedule, housekeeping and maintenance of those rooms or facilities which contain the plants, systems or equipment operated and maintained under this contract.

1.37.2.4 Technical Library

The Contractor shall utilize the technical data supplied under [OPERATION

AND MAINTENANCE (O&M) DATA FOR EQUIPMENT AND SYSTEMS] [OPERATION AND MAINTENANCE (O&M) DATA]. This information shall be supplemented and corrected as found necessary through experience gained during the operating and maintenance period.

1.37.2.5 Personnel

- a. The plants and related systems shall be attended and operated continuously by experienced personnel who are fully qualified and skilled in all phases of operating the particular equipment assigned to be operated during each shift. The crews and shifts need not necessarily be comprised of equal numbers of personnel, and the qualifications of each crew/watch need not necessarily be equivalent. Each crew, however, shall be capable of fully operating and maintaining the plant and systems under the normally expected operating conditions during an assigned shift. A selected portion of the remainder of the off-duty staff shall be scheduled to be available, on-call, for emergencies.
- b. The operating staff shall be supervised by a chief operator with a minimum of five (5) years relevant experience. The supervisor shall provide continuity among all personnel to improve staff effectiveness and operational procedures.
- c. The maintenance staff shall be comprised of personnel with previous experience in the repair of the type equipment covered under this contract.
- d. The maintenance staff shall be supervised by a maintenance engineer with a minimum of five (5) years relevant experience.
- e. Supervisors shall assure that safety practices are promulgated and posted, and that all staff members understand and abide by established safety procedures.
- f. The Contractor shall designate one individual as the overall manager responsible for the O&M portion of this contract, as defined in this clause and this individual shall meet the approval of the Contracting Officer. This manager may have dual functions. In addition, supervisors and key personnel shall be approved by the Contracting Officer. The requests for review and approval shall include a resume for each person.
- g. The manager, supervisors and key personnel shall be on board thirty (30) calendar days prior to implementation of OPERATION AND MAINTENANCE (O&M). A list of those to be on board shall be provided to the Contracting Officer [_____] calendar days prior to completion of the construction contract.

1.37.2.6 Reports and Records

The Contractor shall:

- a. Maintain a record of all maintenance performed on major units of equipment.
- b. Maintain an inventory record of all supplies and parts including stock levels, receipts, issues and requisition status.

- c. Maintain a file of completed checklists for all operator maintenance to include lubricant schedule, frequency and type of lubricant required.
- d. Prepare monthly operating summaries for each plant.
- e. Develop, prepare and maintain hourly operating logs for all central plants such as power generation, chilled water, water treatment, sewage disposal, etc. The logs shall require hourly checks and recording by operators of all significant operating data such as pressures, temperatures, volts, amps, speed, fuel and power consumption, etc. The logs shall also contain any operator maintenance performed and the operating status of all equipment; e.g., "operating", "standby", "maintenance", etc.
- f. Maintain logs of all fuel, water, etc., samples taken, to include results of sample analysis.
- g. Develop, perform, and maintain logs of appropriate weekly fire and safety inspections.
- h. Develop, perform and maintain logs of instrument testing and calibration procedures.
- i. All of the above reports and records shall remain on site and copies shall be provided to the Contracting Officer upon request.

1.37.2.7 Reliability Tests

The plants and systems shall be maintained and repaired as required to keep them in a like-new operating condition and at the end of the operating and maintenance period shall be put in a like-new condition prior to turnover to the Government. The evaluation of the conditions of the facility, including all equipment, will be made by the Contracting Officer based on:

- a. Evaluation of records of maintenance and repairs performed.
- b. Physical inspection of the facility including all equipment.
- c. The Contractor's demonstration of the specified operational capability of the plants and systems by putting all equipment in service on a design load type operation for a forty-eight (48) hour reliability run. This reliability test shall start ten (10) calendar days prior to completion of the O&M period. All of the above must be made to the satisfaction of the Contracting Officer prior to final payment for Clause OPERATION AND MAINTENANCE (O&M).

1.37.3 Special Facilities and Services to be Furnished by the Contractor (During O&M Period)

[Services shall be the same as provided under the construction portion of this contract.]

[Services shall be modified as follows:

_____.

1.37.4 Facilities to be Furnished by the Government (During O&M Period)

[Services shall be the same as provided under the construction portion of

this contract.]

[Services shall be modified as follows:]

1.37.5 Payments

The payment amount for the O&M portion of this contract will be as designated in the Proposal Schedule.

- a. The Contractor shall submit separate monthly invoices to the Contracting Officer for work performed under this clause.
- b. Final payment will be withheld until the satisfactory completion of the reliability run (as defined in this clause) and shall be no less than 10% of the payment item.

1.38 STARTUP, COMMISSIONING, PERFORMANCE/ACCEPTANCE TESTING AND TRAINING

Unless stated elsewhere in this contract, the Contractor shall provide all necessary operating supplies, fuels, lubricants, chemicals, and other expendable consumables necessary to perform startup, commissioning, performance/acceptance testing and training for all equipment and systems specified by this contract.

1.39 LOCALLY AVAILABLE SERVICE FOR EQUIPMENT

All equipment furnished under this contract, regardless of country of manufacture or purchase, must have in-country service availability. In the event that the Contractor proposed to provide equipment for which in-country service is not available, the Contractor must provide written justification for the Contracting Officer's approval. This justification shall be submitted for each product or material for which a waiver is sought concurrently with the submittal required by the Technical Provisions. Submission of group or "blanket" waivers is unacceptable.

1.40 LOCALLY AVAILABLE SERVICE FOR EQUIPMENT (ALTERNATE 1)

Each product, material, system, process or equipment furnished under Part 2 PRODUCTS of the specification, shall, regardless of country of manufacture or purchase, have in-country service, repair, replacement, and technical support availability. The Contractor shall tabulate this information on a separate sheet of paper and provide it as a supplement to each applicable submittal. Upon approval by the Government, the Contractor shall transfer the tabulated information to a cumulative list cross referenced to the applicable specification section. This list shall be submitted to the Government and jointly reviewed on a monthly basis.

1.40.1 Final List

When complete, the Contractor shall submit the finalized list to the Contracting Officer for review and approval. When approved by the Government, this list shall be incorporated into the Operation and Maintenance Support Information (OMSI) Manual required in SC-1.34 entitled OPERATION AND MAINTENANCE SUPPORT INFORMATION (OMSI). The Contractor shall include provisions for obtaining the data required hereinafter in all purchase orders and sub-contract agreements issued under this contract. The aforementioned requirements are in addition to the submission requirements contained elsewhere in the contract documents. The

Contractor's list shall include but not necessarily be limited to the following:

- a. Description of each product, material, system, process or equipment furnished by this specification.
- b. Catalog price and total quantities of each item.
- c. Model and serial numbers when applicable.
- d. Name, complete address, telephone/FAX number, and e-mail address for the authorized in-country representative of the manufacturer, vendor, or supplier.

1.40.2 Justification Products for Which In-Country Service is not Available

In the event that the Contractor proposes to provide products for which in-country service is not available, or for firms that provide incomplete or only partial services, the Contractor must provide written justification for the Contracting Officer's review and approval. This justification shall be submitted for each product or material for which a waiver is sought concurrently with the submittal required by the TECHNICAL PROVISIONS. Submission of group or "blanket" waivers is unacceptable.

1.41 CONTRACTOR FURNISHED EQUIPMENT LISTS

The Contractor shall furnish a list of all items, other than integral construction type items, furnished under the contract. Items such as furniture, drapes, rugs, vehicles, office machines, appliances, etc., shall fall under this category. The Contractor's list shall describe the item, give the unit price and total quantities of each. Model and serial numbers for equipment shall be provided when applicable. The Contractor shall keep an up-to-date register of all covered items and make this information available to the Contracting Officer or his representative at all times. Prior to acceptance, the Contractor shall submit the complete register to the Contracting Officer.

1.42 TIME EXTENSIONS FOR UNUSUALLY SEVERE WEATHER

1.42.1 General

This provision specifies the procedure for determination of time extensions for unusually severe weather in accordance with the Contract Clause 52.249-10 entitled DEFAULT (FIXED-PRICE CONSTRUCTION) APR 1984. The listing below defines the monthly anticipated unusually severe weather for the contract period and is based on National Oceanic and Atmospheric Administration (NOAA) or similar data for the geographic location of the project. The schedule of anticipated unusually severe weather will constitute the baseline for determining monthly weather time evaluations. Upon acknowledgment of the Notice to Proceed (NTP) and continuing throughout the contract each month, actual unusually severe weather days will be recorded on a calendar day basis (including weekends and holidays) and compared to the monthly anticipated unusually severe weather in the schedule below. The term "actual unusually severe weather days" shall include days actually impacted by unusually severe weather. The Contractor's schedule must reflect the anticipated unusually severe weather days on all weather dependent activities.

MONTHLY ANTICIPATED UNUSUALLY SEVERE WEATHER CALENDAR DAYS

| | | | | | | | | | | | |
|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| JAN | FEB | MAR | APR | MAY | JUN | JUL | AUG | SEP | OCT | NOV | DEC |
| () | () | () | () | () | () | () | () | () | () | () | () |

1.42.2 Time Extensions

The number of actual unusually severe weather days shall be calculated chronologically from the first to the last day in each month. Unusually severe weather days must prevent work for fifty percent (50%) or more of the Contractor's work day and delay work critical to the timely completion of the project. If the number of actual unusually severe weather days exceeds the number of days anticipated in the paragraph above, the Contracting Officer will determine whether the Contractor is entitled to a time extension. The Contracting Officer will convert any qualifying delays to calendar days and issue a modification in accordance with the Contract Clause 52.249-10 entitled DEFAULT (FIXED-PRICE CONSTRUCTION) APR 1984.

1.43 UNSCHEDULED WORK STOPPAGES

The Contractor shall anticipate unscheduled removal from the work site an average of [____] hours per [____] [day, week, month, quarter, year, etc]. If the total quantity of delays varies above or below the stated quantity, an equitable adjustment under Contract Clause 52.243-4 CHANGES shall be made upon written demand of either party. Upon the receipt of a written request for an extension, the Contracting Officer shall ascertain the facts and make an adjustment for extending the completion date if, in the judgment of the Contracting Officer, a delay is justified.

1.44 PHYSICAL CONDITIONS

The indications of physical conditions on the drawings and in the specifications are the result of site investigations. [Exploration logs are presented as an appendix attached to these Special Clauses.]

1.45 STANDARDIZATION

Where two or more items of the same type or class of equipment furnished in this project are required, the units shall be products of the same manufacturer and shall be interchangeable when of the same size, capacity, performance characteristics, and rating. The only exception to this requirement is where the items are interchangeable due to conformance with industry standards (valves, fittings, etc.), they need not be by the same manufacturer. This requirement applies to all manufactured items in the project which normally require repair or replacement during the life of the equipment.

1.46 RESIDUAL CONSTRUCTION MATERIAL

All Contractor purchased materials and equipment intended for incorporation into the completed facilities and which are later determined excess to the actual construction requirements, will become the property of the Government. The residual materials and equipment shall be tagged (giving the area where like type material and equipment were installed), and stored in an orderly manner in a designated area as directed and approved by the Contracting Officer.

1.47 CUSTOM EXEMPT CONTRACT

The Contractor shall furnish to the Contracting Officer, just prior to completion of this contract, a consolidated inventory of all excess supplies, materials, and equipment imported duty free for use under this contract. The Contractor shall either pay required duties on the excesses, re-export the excesses, or the excesses shall become the property of the Government.

1.48 CONTRACTOR TRANSPORTATION AND CUSTOMS CLEARANCE

All materials and equipment which are not to be incorporated into the project, such as office trailers, cranes, metal forms, etc., may be shipped free of duty, if the following actions are taken:

1.48.1 Shipments of Materials

All shipments of materials into the country for use in performance of work under this contract and supplies or services necessary for support of the Contractor's personnel shall be addressed to the shipping address furnished to the Contractor by the Contracting Officer. Address will be furnished upon request by the Contractor.

1.48.2 Contractor's Responsibilities

The Contractor shall be responsible for all customs clearance actions. All necessary arrangements, clearance procedures, and coordination with the Host Government customs, will be the sole responsibility of the Contractor. The Contractor shall submit to the Contracting Officer, with a cover letter, information copies of the shipping documents for the shipment(s) involved. As a minimum, the following shall be included as enclosures, with the cover letter to the Contracting Officer in three (3) copies:

- a. Invoice. (Include a copy in Arabic)
- b. Bill of Lading.
- c. Certificate of Origin.
- d. Statement on the cover letter as to Port of Customs Clearance, estimated arrival date, general description of the shipment, quantity and the name of the carrier.
- e. Serial number or model number of shipment items.

1.48.3 Physical Handling of Materials

The Contractor shall be responsible for performance of all loading, unloading, transportation or other physical handling of materials as may be required, including all movement from carrier unloading site to delivery at the job site and all movement required at the customs area.

1.48.4 Certification

The U.S. Embassy, upon receipt of request of shipping documents, shall issue a letter to the Director of Customs certifying that the materials are being brought into the Host Government under the applicable agreement and should be allowed into the Host Government duty-free.

1.49 COMPLIANCE WITH HOST COUNTRY RULES AND CUSTOMS

The laws of Host Country may prohibit access to certain areas of the country which are under military control. The Contractor shall furnish the Contracting Officer the names of personnel, type, and amounts of equipment, dates and length of time required at the site, and the purpose of entering the host country. It is understood that areas to which rights of entry are provided by the Host Government are to be used only for work carried out under the contract and no destruction or damages shall be caused, except through normal usage, without concurrence of the Host Government.

1.49.1 Contractor's Responsibilities

The following items are the sole responsibility of the Contractor to investigate, estimate as to cost, and assume the risk, as normally encountered by Contractors. The Contractor shall be responsible for determining the effect of the following on his own cost of performance of the contract and for including sufficient amount in the contract price:

- a. Official language and type of accounts required to satisfy the officials of the Local Government.
- b. Entry and exit visas, residence permits, and residence laws applicable to aliens. This includes any special requirements of the Host Government, including those required by local Labor Offices, which the Contractor may have to fulfill before an application for a regular block of visas will be accepted.
- c. Passports, health and immunization certificates, and quarantine clearance.
- d. Compliance with local labor and insurance laws, including payment of employer's share of contribution, collecting balance from employee and paying into insurance funds.
- e. Strikes, demonstrations and work stoppage.
- f. Collection through withholding and payment to local Government, of any Host Country income tax on employees subject to tax.
- g. Arranging to perform work in the Host Country, to import personnel, to employ non-indigenous labor, to receive payments and to remove such funds from the country.
- h. Operating under local laws, practices, customs and controls, and with local unions, in connection with hiring and firing, mandatory wage scales, vacation pay, severance pay, overtime, holiday pay, 7th day of rest, legal notice or pay in lieu thereof for dismissal of employees, slowdown and curtailed schedules during religious holidays and ratio of local labor employed in comparison to others.
- i. Possibility of claims in local bureaus, litigation in local courts, or attachment of local bank accounts.
- j. Compliance with workmen's compensation laws and contributions into funds. Provisions of necessary medical service for Contractor employees.

- k. Special license required by the local Government for setting up and operating any manufacturing plant in the Host Country, e.g. concrete batching, precast concrete, concrete blocks, etc.
- l. Sales within the host country of Contractor-owned materials, and equipment.
- m. Special licenses for physicians, mechanics, tradesmen, drivers, etc.
- n. Identification and/or registration with local police of imported personnel.
- o. Stamp tax on documents, payments and payrolls.
- p. Base passes for permanent staff, day laborers, motor vehicles, etc.
- q. Compliance with all customs and import rules, regulations and restrictions, including, but not limited to, local purchase requirements.

1.50 NOT USED

1.51 MILITARY BASE SECURITY REQUIREMENTS

The Base Security Office maintains the ultimate authority for establishing, monitoring, and enforcing security requirements for the Base. All Contractor, sub-Contractor, or vendor personnel and vehicles at any their working at any location on the Base are subject to a thorough search upon entering, departing, or at any time deemed necessary by Base Security Personnel. The Contractor shall be responsible for compliance with all Base security requirements. The Government reserves the right to deny access or to require the Contractor to remove any personnel or equipment deemed to be a threat to the security of the Base or Base personnel. The Contractor shall work through the Contracting Officer to assure that Base Security Regulations are followed.

1.51.1 Security Areas

For most of the duration of this contract, the Base will be divided into three (3) zones, the Base Security Area, the Base Parking Area, and the Construction Security Area, as shown on the contract drawings. Minimum requirements for Contractor entry and operations in each of these areas is described below.

1.51.1.1 Construction Security Area

For the majority of the contract period, a Construction Security Area, as shown on the drawings, will be established. This area includes most of the work areas for this contract. Within the Construction Security Area, the Contractor will have the primary responsibility for implementation and enforcement of the security requirements for all Contractor personnel and equipment in the Construction Security Zone. The Government reserves the right to inspect the Contractor's security operations and to direct the Contractor to immediately correct any deficiencies found. The Construction Security Area will exist until the Medical/Dental Facility or the Quality of Life Facility are accepted by the Government. After acceptance of either of these facilities, the entire Base will be considered as the Base Security Area and all requirements applicable to that area will apply.

- a. Access to the Construction Security Area: Contractor access to the Construction Security Area will be limited to the construction gate shown on the contract drawings. The Contractor shall be responsible for controlling access to the Construction Security Zone by all Contractor personnel, equipment, and vehicles. During the period of this contract, other Contractors may utilize the construction gate. The Contractor will not be responsible for monitoring personnel or vehicles of other Contractors. The Contractor shall, however, cooperate with those monitoring security requirements for other contractors to assure a smooth flow of traffic and personnel through the gate.
- b. Identification of Employees in the Construction Security Area: The Contractor shall provide an identification badge for every employee entering the Construction Security Area. The identification badge will be laminated and shall contain the following information in English: employee's name, current color photo, badge number, CPR or Passport number and expiration date, nationality, height and weight, and the Contractor's name (and subcontractor's or vendor's name if applicable). The Contractor shall assure that every employee entering or leaving through the construction gate displays a valid identification badge. Employees shall wear identification badges prominently displayed at all times while in the Construction Security Area. Failure to wear a properly displayed current identification badge will be considered grounds for removal of the employee from the site. The Contractor shall conduct random inspections to assure that identification badges are properly displayed. In addition to identification badges, contractor personnel shall wear identifying markings on hard hats clearly identifying the company for whom the employee works. The Contractor shall maintain a current list of all identification badges issued including the same information as contained on the badge. On a weekly basis, the Contractor shall provide the current list of badges issued through the Contracting Officer to the Base Security Office. A current list of badges issued will also be maintained in the construction gate guard house at all times. The Contractor shall be responsible for obtaining the identification badge of any employee no longer working on this project. Badges of all employees removed from the current list of identification badges will be turned over to the Contracting Officer. Prior to final payment under this contract, the Contractor must account for all badges issued throughout the life of the contract.
- c. Identification of Vehicles and Equipment in the Construction Security Area. The Contractor shall provide a permanent identification sticker on all vehicles, trailers, and mobile pieces of equipment which have access to the Construction Security Area. In addition, each vehicle, trailer, or mobile piece of equipment shall be marked with the Contractor's name on both sides such that it is clearly visible. The Contractor shall maintain a current access list of vehicles, trailers, and mobile pieces of equipment which are permitted access to the Construction Security Area. This access list shall include the type of equipment, make and model, registration number (if applicable), and license number (if applicable). The current access list shall be provided through the Contracting Officer to the Base Security Office on a weekly basis. A current copy of the list will maintained in the

construction gate guard house at all times. The Contractor will be responsible to assure that all of his vehicles, trailers, and mobile pieces of equipment entering the Construction Security Area are properly identified and are included on the access list. All Contractor vehicles and equipment entering through the construction gate will be subject to a through inspection by Government personnel.

1.51.1.2 Base Security Area

Access to the Base Security Area will be controlled by Base Security personnel. The Contractor will schedule and plan his work to minimize the numbers of personnel, vehicles, and equipment entering the Base Security Area. Within the Base Security Area, Base Security personnel will have the primary responsibility for implementation and enforcement of security requirement. However, the Contractor is responsible to assure that his personnel, vehicles and equipment are in compliance with all security regulations. All requirements for access to the Base Security Area are in addition to requirements for access to the Construction Security Area. All Contractor personnel, vehicles, and equipment entering the Base Security Area must also meet the requirements for access to the Construction Security Area.

- a. Access to the Base Security Area. Contractor personnel will enter the Base Security Area through the base personnel gate. Personnel without proper identification and clearance will not be permitted entry. Contractor vehicles and equipment will enter the Base Security Area through the Base Delivery Gate in the Banz Warehouse area. Vehicle, equipment, and drivers without proper identification and clearance will not be permitted entry. All vehicles and equipment entering the Base Security Area will be thoroughly inspected by Government personnel. Privately owned vehicles will not be permitted entry to the Base Security Area.
 - b. Identification of Employees in the Base Security Area. All Contractor employees entering the Base Security Area must be wearing a prominently display Contractor Identification Badge at all times within the area. In addition, all Contractor employees entering the Base Security Area must have Base passes or be listed on the Base Access List.
1. Base Passes for Contractor Supervisory Personnel. All Contractor supervisory (above foreman level) requiring frequent access to the Base Security Area will be issued Base passes by the Base Security Office. For each supervisory person requiring access to the Base Security Area, the Contractor shall submit a Base Security Pass Application through the Contracting Officer to the Base Security Office. Copies of the application forms will be made available at the Pre-construction Conference. The Contractor will allow a minimum of seven days for processing and issuance of Base Security Passes. The first fifty (50) passes will be issued at no cost to the Contractor. All additional passes will be issued at a cost to the Contractor of [\$5.00] [_____] per badge. Prior to final payment under this contract, the Contractor shall be responsible to account for all Base passes issued to Contractor employees.
 2. Base Access List for Non-Supervisory Personnel. All Contractor non-supervisory personnel (foreman and below) requiring access to the Base Security Area must be included on the Base Access List. The

Contractor shall submit, through the Contracting Officer to the Base Security Office, a list of all non-supervisory personnel requiring access to the Base Security Area. The list shall include the following information for each worker: full name, nationality, and Central Population Record (CPR) number or Passport number and expiration date. The Contractor shall allow a minimum of seven days for inclusion of names on the Base Access List. Contractor personnel entering the Base Security Area will be checked against the Base Access List daily. Contractor non-supervisory personnel authorized access will be provided a temporary badge in exchange for CPR or passport each day which must be returned when the employee exits the Base Security Area. The Contractor shall update the list of employees requiring access to the Base Security Area weekly and shall provide copies of the updated list through the Contracting Officer to the Base Security Office.

c. Identification of Vehicles and Equipment in the Base Security Area. All Contractor vehicles and equipment entering the Base Security Area must meet the requirements for entry into the Construction Security Area. In addition, Contractor vehicles and equipment entering the Base Security Area must be listed on the Base Vehicle Access List. The Contractor shall submit, through the Contracting Officer to the Base Security Office, a list of all vehicles and equipment requiring access to the Base Security Area. The list shall include the following information for each vehicle or piece of equipment: type of equipment, make and model, registration number (if applicable), license number (if applicable), and driver/operator (if applicable). The Contractor shall allow a minimum of seven days for inclusion of vehicles and equipment on the Base Vehicle Access List. The Contractor shall update the list of vehicles and equipment requiring access to the Base Security Area weekly and shall provide copies of the updated list through the Contracting Officer to the Base Security Office. When only one driver will operate a vehicle, the name of the driver may be included on the Vehicle Access List.

1. Drivers Access List. When Contractor vehicles entering the Base Security Area will be operated by more than one driver, the Contractor shall submit a Drivers Access List. The Contractor shall submit, through the Contracting Officer to the Base Security Office, a list of all drivers bring vehicles into the Base Security Area. The list shall include the following information for each driver: full name, nationality, and Central Population Record (CPR) number or Passport number and expiration date. The Contractor shall allow seven days for inclusion of names on the Base Driver Access List. The Contractor shall update the list of drivers requiring access to the Base Security Area weekly and shall provide copies of the updated list through the Contracting Officer to the Base Security Office.

1.51.1.3 Base Parking Area

Except as required to install the temporary fence between the Base Parking Area and the Construction Security Area and to relocate this temporary fence to permit construction required under this contract, Contractor personnel will not be permitted in the Base Parking Area.

1.51.1.4 Access to Operational Area

Contractor personnel are expressly prohibited from entering operational buildings or areas without the specific authorization of the Contracting

Office. Necessary access to operational buildings or areas shall be coordinated through the Contracting Officer a minimum of seven (7) days before access is required.

1.51.1.5 Security Plan

The Contractor shall submit to the Contracting Officer, within [twenty (20)] [_____] calendar days after Notice to Proceed, his proposed security plan. This plan shall address the Contractors proposed procedures for complying with all Base security requirements, Guardhouse and Vehicle Shade Structure security operations, and shall address in detail the contractor's proposed procedures and organization necessary to provide and maintain effective security twenty four hours a day, seven days a week.

1.52 MILITARY BASE RULES AND REGULATIONS

The Contractor and his employees and subcontractors shall become familiar with and obey all Base rules and regulations including fire, traffic and security regulations. All personnel employed on the Base shall keep within the limits of the work (and avenues of ingress and egress), and shall not enter any Restricted Areas unless required to do so and prior clearance for such entry is obtained. The Contractor's equipment shall be conspicuously marked for identification.

1.53 IDENTIFICATION OF EMPLOYEE'S PERSONNEL AND VEHICULAR ACCESS TO THE PROJECT SITES

The the [Military] [Base] [_____] Security maintains the ultimate authority for establishing, monitoring, and enforcing security requirements for the the [Military] [Base] [_____] Security Office. All contractor, subcontractor, or vendor personnel and vehicles at any tier working at any location on the [Base] [_____] are subject to a thorough search upon entering, departing, or at any time deemed necessary by the [Military] [Base] [_____] Security Personnel. The Contractor shall be responsible for compliance will all the [Military] [Base] [_____] security requirements. The Government reserves the right to deny access or to require the contractor to remove any personnel or equipment deemed to be a threat to the security of the [Military] [Base] [_____] Security Office or the [Military] [Base] [_____] personnel. The Contractor shall work through the Contracting Officer to ensure that the [Military] [Base] [_____] Security Regulations are followed.

1.53.1 Employee Identification

The Contractor shall be responsible for furnishing to each employee and for requiring each employee engaged on the work, to display bilingual [English/Arabic] [English/_____] identification as approved and directed by the Contracting Officer. Prescribed identification shall immediately be delivered to the Contracting Officer for cancellation upon release of any employee. When required, the Contractor shall obtain and provide fingerprints of persons employed on the project. Contractor and subcontractor personnel shall wear identifying markings on hard hats clearly identifying the company for whom the employee works.

1.53.1.1 Preparation of Identification Badges

The Contractor shall be required to prepare a written application inclusive color photographs and provide all materials and labor necessary to prepare

a bilingual [English/Arabic] [English/_____] identification badge, laminated in plastic, containing the employee's name, badge number, color photo, height and weight, the name of the Contractor's organization and for requiring each employee engaged on the work to display this identification as directed by the Contracting Officer. The Contractor shall submit each application and draft badge through the Contracting Officer to the [Military] [Base] [_____] Security Office. A minimum of thirty-five work days shall be allowed for Government review and certification of badges. The [Military] [Base] [_____] Security Office will certify each draft badge by signature, stamp, seal or any combination thereof. Upon certification by the [Military] [_____] Security Office, the badges will be returned to the Contractor for final preparation, lamination, and issuance. Badges shall not be taken out of country during periods of travel or absence. During such periods, the Contractor may be permitted to issue temporary identification badges.

1.53.1.2 Employee Background and Historical Information

The Contractor shall be required to prepare and maintain personal background and historical information forms on each employee. These forms may be reviewed by the [Military] [Base] [_____] Security Office. The required information shall include but not necessarily be limited to the following:

- a. Full name.
- b. Place and date of birth.
- c. Three (3) current color photographs.
- d. [Central Population Record (CPR)] [_____] card number.
- e. Copy of Citizenship/Nationality identification.
- f. Copy of Passport.
- g. Copy of drivers license.
- h. [_____] Police Background Check.
- i. Work History.
- j. Personal background information.
- k. Copy of Work permit and/or Visa.
- l. Permanent home of record and in-country address.
- m. Other information mandated by local law, the [Military] [Base] [_____] Security Regulations or that may be required to coordinate and process the necessary documentation with the government offices responsible for the approval.
- n. Registration, insurance company, policy number and expiration date for each vehicle.

1.53.2 Identification of Contractor Vehicles

The Contractor shall be responsible for requiring each vehicle engaged in

the work to display permanent vehicular identification as approved and directed by the Contracting Officer. If acceptable to the [Military] [Base] [_____] Security Office and approved by the Contracting Officer, the Contractor may institute a system of non-permanent temporary identification for one-time delivery and transit vehicles. Each Contractor vehicle, machine, piece of equipment, or towed trailers, shall show the Contractor's name such that it is clearly visible on both front doors of the vehicle and both sides of a towed trailer. A valid license plate shall be displayed at all times. Contractor vehicles operated on Government property shall be maintained in a good state of repair, shall be insured, and shall be registered in accordance with [_____] Law.

1.53.3 Security Plan

The Contractor shall submit to the Contracting Officer, within [twenty (20)] [_____] calendar days after Notice to Proceed, his proposed personnel and vehicular access plan. This plan shall cover all elements for issuance of the access passes, safeguarding of unissued passes, construction security operations, lost passes, temporary vehicle passes, and collection of passes for employee's and vehicles on 1)- temporary absence; 2)- termination or release; and 3)- termination or completion of contract. The plan shall address in detail the contractors proposed procedures, and organization necessary to produce and maintain effective security within the contract limits twenty-four (24) hours a day seven (7) days a week.

1.54 BASE HOT WORK PERMITS

1.54.1 Requirement for Hot Work Permits

Prior to the start of a work activity including hot work (welding, burning, etc.) or the operating of other flame producing devices, the Contractor shall obtain a Hot Work Permit.

1.54.2 Requests for Hot Work Permits

Requests for Hot Work Permits shall be submitted through the Contracting Officer to the Base Fire Department a minimum of 7 days prior to the start of the work activity covered by the permit. The request for a Hot Work Permit shall include a narrative description of the work to be accomplished, a list of equipment to be used, and a description of special safety precautions that the Contractor will put in place during the work to assure compliance with EM 385-1-1 and Base Fire Regulations.

1.54.3 Preparatory Inspections and Inspection of Equipment

During the Preparatory Inspection for any work activity including hot work, the Hot Work Permit shall be reviewed. During the Preparatory inspection, all hot equipment and safety equipment shall be checked to assure that it is in proper working order. Safety equipment required by the Hot Work Permit shall be checked at the beginning of each shift to assure that it is in proper working order.

1.55 RADIO TRANSMITTER RESTRICTIONS

To preclude accidental actuation of sensitive electronic equipment, the Contractor shall not use radio transmitting equipment without prior approval of the Contracting Officer.

1.56 ON-BASE PHOTOGRAPHY PROHIBITION

The Contractor shall not engage in any form of photography without prior written approval from the Contracting Officer.

1.57 PUBLIC RELEASE OF INFORMATION

1.57.1 Prohibition

There shall be no public release of information or photographs concerning any aspect of the materials or services relating to this bid, contract, purchase order, or other documents resulting therefrom without the prior written approval of the Contracting Officer.

1.57.2 Subcontract and Purchase Orders

The Contractor agrees to insert the substance of this clause in all purchase orders and subcontract agreements issued under this contract.

1.58 REQUIREMENT FOR USE OF U.S. CITIZENS

To assure that the United States maintains a construction capability that is dependable, technically proficient, and responsive to its National requirements and interests this project has been limited to U.S. Contractors. Therefore, the Contractor shall use U.S. Citizens in key management and supervisory positions at the site of the work to the maximum extent necessary to support this goal. As a minimum [_____] U.S. Citizens will be required. The following positions are required to be filled by U.S. Citizens:

- Project Manager
- Superintendent Assistant
- Superintendent, minimum of [_____]
- Quality Control System Manager
 - [Collateral duty with _____]
 - [Function combined with Accident Prevention System Manager]
 - [Full time Position]
- Accident Prevention System Manager
 - [Collateral duty with _____]
 - [Function combined with CQC System Manager]
 - [Full time Position]

Within [thirty (30)] [_____] calendar days after contract award, the Contractor shall submit for approval, an organization chart showing all management and supervisory positions to the foreman level. The chart shall denote those positions which will be filled by U.S. Citizens.

1.59 NOT USED

1.60 NOT USED

1.61 USE OF PROPRIETARY SPECIFICATIONS

In the construction of this project, the following items of equipment (applicable to this project) will be manufactured by the U.S. firms listed below. The requirements of this clause take precedence over other brand names that may be specified in the Technical Provisions.

(TASK ORDER SPECIFIC)

1.62 USE OF MILITARY POSTAL SYSTEM (MPS) FACILITIES: (Applicable to United States Firms and Citizens ONLY)

1.62.1 Authorized Use

U.S. citizen employees of the Prime U. S. Contractor(s) are authorized to use MPS services to the extent available subject to the following conditions. The use of the official indicia "Postage and Fees Paid", for any mailings is not authorized. In no event shall MPS privileges extend to subcontractors or subcontractor employees unless they are specifically authorized in the contract.

1.62.2 Use and Restrictions

The use of MPS services for personal mail is authorized up to a maximum of 70 pounds. Any mail size restrictions imposed by the MPS must be followed. The Contractor's use of MPS parcel privileges is dependent on the ability of the host (MPS) facility to support the workload and, the absence of objections by the Host Nation Government. Restrictions may be imposed during periods of high volume such as seasonal holidays and/or as deemed necessary by the Host MPS. The Contractor shall directly reimburse the Department of Defense (DoD) MPS Facility for the costs of transporting the mail from the U.S. to the overseas location. This cost is in addition to all applicable postage fees that may apply.

1.62.3 Compliance With Regulations

The Contractor agrees to insure compliance with all pertinent regulations regarding use of such facilities and to prevent abuse of MPS privileges extended to authorized personnel. The Contractor will provide to the MPS facility and the Contracting Officer a current list of U.S. employees entitled to MPS privileges under the terms of this contract. The Contractor shall update and resubmit this list to the MPS facility and the Contracting Officer once each calendar quarter.

1.63 WORK IN HIGH SECURITY AREAS WHERE USE OF DEADLY FORCE MAY BE AUTHORIZED

1.63.1 General

The Site Security Office [_____] maintains the ultimate authority for establishing, monitoring, and enforcing security requirements for the security site [_____]. The Contractor shall work through the Contracting Officer to ensure that the [_____] Security Regulations at the secure site are followed. All contractor, subcontractor, or vendor personnel and vehicles at any tier working at any location on the secure site [_____] are subject to a thorough search upon entering, departing, or at any time deemed necessary by the secure site [_____] Security Personnel. The Contractor shall be responsible for compliance with all the security requirements. The Government reserves the right to deny access or to require the contractor to remove any personnel or equipment deemed to be a threat to the security of the secure site [_____].

1.63.2 Employee Background and Security Investigations

The Contractor shall be required to prepare and maintain personal

background and historical information forms on each employee. These forms may be reviewed by the Site Security Office [_____].

1.63.2.1 Required Information

The required information shall include but not necessarily be limited to the following:

- a. Full name.
- b. Place and date of birth.
- c. Three (3) current color photographs.
- d. Fingerprints, complete set
- e. [Central Population Record (CPR)] [_____] card number.
- f. Copy of Citizenship/Nationality identification.
- g. Copy of Passport.
- h. Copy of drivers license.
- i. [_____] Police Background Check.
- j. Work History.
- k. Personal background information.
- l. Copy of Work permit and/or Visa.
- m. Permanent home of record and in-country address.
- n. Other information mandated by local law, the [Military] [Base] [_____] Security Regulations or that may be required to coordinate and process the necessary documentation with the government offices responsible for the approval.
- o. Registration, insurance company, policy number and expiration date for each vehicle.

1.63.2.2 Security Investigation

The following background and security checks shall be required for all Contractor personnel:

| Description | Approximate Time Required to Perform |
|-------------|--------------------------------------|
| [_____] | [_____] |

1.63.2.3 Non-Compliance

If the Contractor fails or refuses to promptly provide any or all of the information required by the Site Security Office, the Contracting Officer may issue an order stopping all or part of the work until satisfactory corrective action has been taken. No part of the time lost due to such stop orders shall be made the subject of claim for extension of time or for excess costs or damages by the Contractor.

1.63.3 Maximum size of Workforce

The maximum size of the workforce within the controlled area at any one time will be restricted to [____].

1.63.4 Site Entry Requirements

Prior to work each day, the contractor shall present a list of workers to the Site Security Office. This list shall include but not necessarily be limited to the following:

Name
Occupation
Work Itinerary
[____]

1.63.5 Employee Identification

1.63.5.1 General

The Contractor shall be responsible for requiring each employee engaged on the work, to display identification as approved and directed by the Site Security Office and the Contracting Officer. Contractor and subcontractor personnel shall wear identifying markings on hard hats clearly identifying the company for whom the employee works.

1.63.5.2 Preparation Schedule

A minimum of [____] days prior to the proposed start of work, the Contractor shall provide through the Contracting Officer to the Site Security Office, the list of employee's proposed for this work. A minimum of thirty-five [____()] work days shall be allowed for Government review and certification of badges. This list shall include but not necessarily be limited to the following:

Employee's full name
[____]

1.63.5.3 Preparation of Identification Badges: The Contractor shall be required to prepare a written application inclusive color photographs and provide all materials and labor necessary to prepare a [bilingual] [English/Arabic] [English/_____] identification badge, laminated in plastic, containing the employee's name, badge number, color photo, height and weight, the name of the Contractor's organization [and ____]. The Site Security Office [_____] will certify each draft badge by signature, stamp, seal or any combination thereof. Upon certification by the Site Security Office [____], the badges [____] [will be returned to the Contractor for final preparation, lamination, and issuance.]

1.63.5.4 The contractor will be permitted to obtain badges/entrance authorization for additional workers to cover sickness, absence etc.
[_____]

1.63.6 Inspections

1.63.6.1 Vehicle Inspections

A minimum of fifteen (15) minutes will be required to inspect each vehicle.

Vehicles containing cargo (including bulk material such as soil or stone) may require longer periods for inspection.

1.63.6.2 Identification of Contractor Vehicles

The Contractor shall be responsible for requiring each vehicle engaged in the work to display permanent vehicular identification as approved and directed by the Site Security Office [____] and the Contracting Officer.

1.63.6.3 Individual Worker/Employee inspections

A Minimum of five (5) minutes per person will be required. Workers with tool boxes and/or tool belts may require longer period for inspection.

1.63.6.4 Entry and Egress Inspections

Vehicle Inspections and Individual Worker/Employee inspections as indicated in the previous paragraphs will be required upon each and every entry and egress. [This will include but not necessarily limited to lunch as well as visits to the toilet and/or other breaks.]

1.63.7 Storage of tools, equipment, and building materials at the site

1.63.7.1 [option 1]Advance Staging of Construction Materials

[The Contractor is encouraged to bring construction materials on-site a few days in advance of needing them. This will facilitate security checks and help mitigate construction crews from sitting idle awaiting needed construction materials and equipment. The proposed materials and schedule shall require prior review and approval by the Site Security Office.

1.63.7.1.a Acceptable Storage of Construction Materials

Final placement of construction materials and equipment shall be coordinated between the Contractor and the Site Security Office [____] to determine acceptable storage methods. The Site Security Office [____] shall daily inspect the Contractor's proposed storage methodology. Materials stored within the controlled area of the secure site shall be stored in strict conformance with the requirements imposed by the site Security Office. The contractor is cautioned that these requirements may change without notice and should anticipate such occurrences. If the Contractor fails or refuses to promptly store construction materials and equipment as required by the Site Security Office, the Contracting Officer may issue an order stopping all or part of the work until satisfactory corrective action has been taken or at the discretion of the Site Security Office, require the contractor to remove all stored material and equipment from the controlled area of the site. No part of the time lost due to such stop orders shall be made the subject of claim for extension of time or for excess costs or damages by the Contractor.

1.63.7.1.b Disabling of Equipment

Equipment stored on site shall be disabled with the disabled part given to the Site Security Office for the night. If it has a key, the key will also be turned over to the Site Security Office for the evening.

1.63.7.2 Option 2 [Daily Removal of Material, Tools and Equipment]

[With the exception of material incorporated into the work, all remaining

construction material, tools and equipment must be removed from the controlled area of the site at the completion of each work period. This includes bulk materials including but not necessarily limited to sand, cement, asphalt, gravel and other soil materials, stone, concrete masonry units, fired brick, reinforcing steel (rebar), and structural steel.]

1.63.7.3 [Storage Outside the Controlled Area]

[Limited storage of tools, equipment, and building materials may be allowed to be staged outside the controlled area as indicated on drawing ____ if approved in writing by the site security office.] [Storage of tools, equipment, and building materials may be allowed to be staged outside the controlled area as indicated on drawing ____].

1.63.7.4 Toilet Facilities

[A] Portable toilet[s] [shall not] [will] be allowed within the controlled area of the secure site.

1.63.8 Equipment Restrictions

The maximum amount of equipment allowed within the controlled area at any one time will be restricted as follows: [____].

1.63.9 Availability of Guards

The Site Security Office will provide [a maximum of] [____] guards. These guards will be available [____] days a week [____] through [____] [on the following days ____ excluding ____] during the following hours [____]. During seasonal holiday periods [such as Christmas, Ramadan] Guard availability will severely restricted or unavailable. Guards will also be unavailable on [US Holidays] [Host Nation Holidays] [Military Training and/or down days]. There will be no exceptions.

1.63.10 Special Work Hours

1.63.10.1 Work Day

Commencing at 0730 [____] the Site Security Office will make the first security check on the first worker, vehicle, or piece of equipment. The period of time it takes to process the work crew and their vehicles and equipment for any given day, will be deducted from 1630 [____] to ensure that the controlled area of the secure site is cleared NO LATER THAN 1630. The time required by the Contractor's crews for end of day preparations (clean-up, pickup tools, special security requirements, etc) shall be considered by the Contractor and factored into his operations to ensure that all personnel, vehicles, and equipment are off the site prior to 1630 [____] hours. The length of the average work day will be significantly less than eight (8) hours.

1.63.10.2 Management Inspections of Work

Senior Management, Quality Control, Accident Prevention, and other professional staff members who need to inspect the progress and acceptability of the work must be pre-approved as established elsewhere in this clause. Subsequent to approval, visits will require prior coordination with the Site Security Office a minimum of one (1) hour in advance of the proposed visit. Physical entry into the site will be in accordance with established procedure.

1.63.10.3 Lunch Break

Workers [shall not] [will] be allowed to eat lunch within the controlled area of the secure site. [The Contractor will be allowed to provide his workers with a hot lunch.]

1.63.11 Unscheduled Security Alerts

For bidding purposes, the Contractor shall anticipate unscheduled removal from the controlled area of the secured site an average of [____] hours per [____] [day, week, month etc].

1.63.12 Work restrictions and Constraints

1.63.12.1 Work Near the Double Fence

When working within ten (10) meters [thirty (30) feet] of the double fence, an escort must be requested and made available from the Site Security Office [____].

1.63.12.2 Fence penetrations

There will be no more than one (1) fence penetration at any time. The second shall not start until the first is completed and approved by the Government. The secure site has two (2) fences: an inner and an outer fence. Only the outer or the inner fence (NEVER BOTH) may be open at a time. Penetrations may NEVER be made through both fences simultaneously.

1.63.12.3 Restricted Use of Plastic Foil Marking Tape

The plastic/foil marking tape used to identify the location of the buried lines shall NOT be used between the inner/outer security fences. In these areas only, tape without the metal backing will be used.

1.63.12.4 Sensitive Communication Lines

Sensitive communication lines exist within the controlled area of the secure site. The Contractor must coordinate with the Site Security Office to monitor all work which might endanger these line. Use of a cable or metal detector within the controlled area of the secure site [shall not] [will] be allowed. [There will be no exceptions to this requirement.] All excavation within the controlled area of the secure site shall be clearly flagged or marked a minimum of [____] [days] [hours] prior to commencement of work. The Government and the Site Security Office reserves the right to utilize the Contractor's cable/metal detecting device required elsewhere in this contract to conduct searches to ensure that areas flagged by the Contractor for excavation, do not conflict with Sensitive communication lines. Use of the Contractor's equipment will be at no additional cost to the Government.

1.63.12.5 Vibratory Compactors

The Contractor shall be required to conduct a pre-work test in the presence of the Government and the Site Security Office prior to use of any vibratory hand held plate compactor/tamper or other machinery that, in the opinion of the Site Security Office, may interfere with the in-place security system.

1.63.12.6 Fence Foundation

A concrete foundation of unknown depth extends the length of both the inner and outer fence. Backfilling under this barrier shall be with lean concrete.

1.63.12.7 Depth of Fence Penetrations

Depth of fence penetrations between the inner and outer fence shall be a minimum of 48 inches [1 meter 22 cm] plus the diameter of the line or pipe.

1.63.12.8 Hand Digging

In the area within the inner and outer fences there will be no machine digging. 100% of this work shall be performed by hand. Picks and or mattocks shall also not be used in this area.

1.63.12.9 Unrestricted Site Access

The Site Security Office must NEVER have access to the site denied e.g., road cuts, material deliveries, equipment operation, etc.

1.63.12.10 Coordination of Daily Activities

The Contractor shall coordinate each days activities with the Site Security Office prior to the start of each days work.

1.63.12.11 Demarcation Work Line

A Demarcation work line shall be established by the Site Security Office [____]. Workers needing to go outside this area shall ask permission from the guards and/or escorts. This shall include but necessarily be limited to obtaining materials, going to toilet, taking breaks etc.

1.63.12.12 Restriction on Open Excavations

All excavations shall be back-filled at the end of each days work. THERE SHALL BE NO EXCEPTIONS REGARDLESS OF SIZE. The Contractor may backfill unfinished excavations with sand if approved in writing by the Contracting officer and the site Security Office.

1.63.12.13 Flushing of Water Lines

When flushing water lines, the water may not be discharged within the controlled area of the secure site. The contractor shall develop a plan for Government review and approval to flush the lines from outside the controlled area of the site.

1.63.12.14 English Speaking Representative

The contractor shall have an English speaking representative at the site at all times. No exceptions shall be allowed.

1.63.12.15 Excavated Materials

All excavated materials shall be a minimum of ten (10) meters [thirty (30) feet] away from the double fence at all times. No excavated material shall be left on site overnight. It is strongly recommended that the excavated material be loaded directly onto a truck and removed immediately from the

site. This includes topsoil. Excavated material shall be inspected prior to departing the site.

1.63.12.16 Accident Prevention Requirements

Due to the controlled nature of the work site, lighting at night, and the requirement to fill in open excavations each evening, safety barricades will not be needed for this portion of the work after work hours. The Activity Hazard Analysis for this portion of the work shall specifically address the proposed methods for mitigating and minimizing accidents while work is in progress.

1.63.12.17 Unannounced Closing of the Site

If during the work it becomes necessary to close the controlled area of the secure site for security reasons, the Site Security Office will direct the work force to proceed to [the] [a] designated evacuation point. This may be within the controlled entry area or outside the controlled area. The following should be done to the tools/equipment:

[_____]

1.63.13 Construction Operations Plan

The Contractor shall submit to the Contracting Officer, within [thirty (30)] [_____] work days prior to the proposed start of work within the controlled area of the secure site, his proposed construction operations plan. This plan shall cover all elements for issuance of the access passes, construction security operations, storage of materials & equipment, schedule including daily manpower projections, lost passes, vehicle passes, and unannounced closure of the site for security reasons. The plan shall address in detail the contractors proposed procedures, and organization necessary to produce and maintain effective security twenty-four (24) hours a day seven (7) days a week.

1.64 UNEXPLODED ORDNANCE

1.64.1 General

The requirements of this clause are in addition to and supplement EM 385-1-1 U.S. Army Corps of Engineers Safety and Health Requirements Manual.

1.64.1.1 UXO Safety Support During Construction

[_____] location [_____] has been cleared by an Explosive Ordnance Disposal (EOD) [team] [contractor] [_____] . However, unexploded ordnance (UXO) may be discovered and/or uncovered within or around the construction work areas. It is the responsibility of the Contractor to be aware of the risk of encountering UXO and to take all actions necessary to assure a safe work area to perform the requirements of this contract. [If at any time during contract performance, the Contractor becomes aware of or encounters UXO or potential UXO, the Contractor shall immediately stop work at the site of the encounter, move to a safe location, notify the contracting Officer, and mitigate any delays to scheduled or unscheduled contract work. The Contractor shall not perform nor incur any costs for the removal or disposal of UXO. The Contractor assumes the risk of any and all personal injury, property damage or other liability, arising out of and resulting from any Contractor action hereunder.] [In these cases the contractor shall be required to identify and dispose of the ordnance.]

1.64.1.1 UXO Support Prior To Commencement Of Construction

[____location____] [has not] been cleared by an Explosive Ordnance Disposal (EOD) [team] [contractor] [____]. UXO qualified personnel must conduct [a subsurface] [both a surface and subsurface] clearance of the known construction footprint and remove all discovered UXO prior to the start of construction.

1.64.1.2 Background

The [____location____] was occupied by ____ forces after the [invasion of the country] [____]. During the [air] [____] war, forces heavily attacked the [____] in an effort to destroy the forces occupying the facilities. Numerous types of unexploded ordnance remain on the [____] [bases] [from the occupation and subsequent liberation, some of which pose a threat to [unwary] [unescorted] visitors.] Visitors and workers to these facilities must be careful at all times to avoid disturbing unexploded ordnance, and should stay away from suspicious objects. This advice should be considered even in areas listed as having been cleared by Explosive Ordnance Disposal teams since there is always a chance that ordnance was missed. All personnel wishing to visit these sites must receive an UXO safety briefing and be escorted at all times. The [____] has personnel available to give unexploded ordnance (UXO) safety briefings.

1.64.1.3 Site Geophysical Characteristics

[include but are not necessarily limited to the following]:

- [____soil type____]
- [____moisture content]
- [____depth of groundwater]
- [____vegetation____]
- [____]

1.64.2 Ordnance Removal Requirements

1.64.2.1 UXO Investigation

The Contractor shall provide all labor, materials, and equipment necessary to perform UXO investigation and removal. The Contractor shall furnish the required UXO qualified personnel, equipment, instruments, accessories, and transportation, as necessary, to accomplish the required services and furnish to the Government reports and other data, together with supporting material developed while providing UXO support services. During the implementation phases, the Contractor shall provide adequate professionally qualified supervision and quality control to ensure the quality, safety, and completeness of the work.

1.64.2.2 Ordnance Identification

It will be the responsibility of the contractor to perform all ordnance identification and incidental removal actions as required to perform the requirements contained in this contract. The Contractor shall perform all ordnance removal actions necessary to assure safe/clear work areas for all contractor [,____] and Corps of Engineer employees.

1.64.2.3 Personnel

The contractor shall obtain the services of a minimum of [____ (____)] [three (3)] qualified Explosive Ordnance Disposal (EOD) personnel for the duration of the construction contract. The EOD personnel will have the necessary equipment to satisfactorily complete the identification and/or removal actions described herein.

- a. A Senior UXO Supervisor (SUXOS) will be on-site when multiple UXO teams are engaged in UXO activities.
- b. An UXO Safety Supervisor (UXOSO) will be required on all subsurface clearance projects.
- c. An UXO Quality Control Specialist (UXOQCS) will be required on all subsurface clearance projects.
- d. UXO personnel involved in performing UXO tasks shall be limited to an eight (8) hour workday and a forty (40) hour workweek. Each workweek shall be separated by a minimum of 48 hours of rest.

1.64.2.4 Type And Extent Of UXO

The Contractor shall be required to remove/dispose of UXO which could interfere with the accomplishment of the work contained in the contract documents or might result in the creation of an unsafe area in areas frequented by contractor and/or Corps of Engineers (CE) employees. The types and extent of UXO that is known or suspected to be encountered include but is not necessarily limited to:

| UXO Type | Anticipated Scope |
|---------------------|-------------------|
| [munitions] | [____] |
| [land mines] | [____] |
| [personnel mines] | [____] |
| [cluster bombs] | [____] |
| [explosive residue] | [____] |
| [____] | [____] |

1.64.2.5 Other Requirements

UXO removal/disposal shall be in accordance with:

The approved UXO Work Plan, Site Safety and Health Plan, [and the] Explosive siting Plan [____]

[____Host Government____] requirements

[Contracting Officer]

The applicable provisions of the Corps of Engineers Safety and Health Requirements Manual, EM 385-1-1

[____]

1.64.3 Explosives Safety

There are no "safe" methods for dealing with UXO, merely procedures and process controls that are designed to reduce potential hazards. Maximum

safety in any UXO response can be achieved through adherence to applicable safety precautions, a planned approach, and intensive supervision and UXO safety oversight. UXO qualified personnel will conduct a UXO-related site safety briefing prior to commencing operational activities each workday. All activities with potential exposure to ordnance and explosives will be reviewed to identify the associated risks and proposed mitigation procedures. Operations within areas suspected of containing UXO must be conducted in a manner that exposes the minimum number of people to the smallest quantity of explosives for the shortest period of time. During UXO subsurface clearance actions, all non-essential project personnel will withdraw to a location outside of the exclusion zone.

1.64.3.1 General Safety Considerations

General safety considerations applicable to personnel, both essential and non-essential, at project sites where UXO may be encountered include:

- a. Do not carry fire or spark-producing devices.
- b. Do not conduct explosive or explosive-related operations without approved procedures and proper supervision and UXO safety support.
- c. Do not become careless by reason of familiarity with UXO or the reported probability level of UXO contamination.
- d. Do not conduct explosive or potentially explosive operations during inclement weather.
- e. Avoid contact with UXO except during UXO clearance operations.
- f. Conduct UXO-related operations during daylight hours only.
- g. Employ the "buddy system" at all times.

1.64.3.2 Activity Hazard Analysis (AHA) Briefings

- a. Activity Hazard Analysis's shall be prepared in accordance with the Corps of Engineers Safety and Health Requirements Manual, EM 385-1-1.
- b. Hazard analyses will be prepared and briefed by personnel that are knowledgeable in UXO and explosives safety standards and requirements. These personnel should understand the specific operational requirement and hazard analysis methodologies. A hazard analysis will be performed for each activity to determine the significance of any potential explosive-related hazards. Explosive residues may be discovered or exposed during UXO operations in the form of powder or various granular and powder based pellets. These contaminants can enter the body through the skin or by ingestion if proper personal hygiene practices are not followed. Explosive fillers such as white phosphorus are dangerously reactive in air and acute exposure can result in serious injury to the skin, eyes, and mucous membranes. They are also a fire hazard.

Safety requirements (or alternatives) that will either eliminate the identified hazards, mitigate or control them to reduce the associated risks to an acceptable level will be developed. The adequacy of the operational and support procedures that will be implemented to eliminate, control, or abate identified hazards or risks will then be evaluated and a second risk assessment completed to verify that a satisfactory safety level has been achieved.

1.64.3.3 Hazards Of Electromagnetic Radiation To Ordnance

Some ordnance items and other electroexplosive devices (EEDs) are particularly susceptible to electromagnetic radiation (EMR) in the radio frequency range. The location of all potential sources of electromagnetic radiation (EMR) in the radio frequency (RF) range originating from devices such as radio, radar, and television transmitters, shall be documented. The UXO Contractor shall coordinate with the appropriate agency(ies) or company(ies) and establish the means for their control prior to commencement of work. In addition, active and passive subsurface detection devices emit EMR/RF. Each type of equipment producing EMR/RF must be reviewed and an Activity Hazard Analysis completed. The level of EMR/RF susceptibility and potential hazard is a result of the design and type of ordnance item that may be present. Therefore, a knowledge of what ordnance is normally unsafe in the presence of EMR/RF is important so preventive steps can be taken if the ordnance is encountered.

1.64.4 Personal Protective Equipment (PPE)

1.64.4.1 PPE For UXO Operations

All UXO team members should be trained in the use of, medically qualified for, and physically able to wear, the prescribed PPE. PPE for UXO support operations will be determined by site-specific and task-specific analyses, documented in the site-specific SSHP, and worn as indicated in the plans. Specific requirements for PPE are described in the following paragraphs.

a. PPE will comply with the more stringent requirements of EM 385-1-1, US Army Corps of Engineers Safety and Health Requirements Manual, and the applicable portions of 29 CFR 1910 Subpart I or 29 CFR 1926 Subpart E.

b. Footwear: In addition to the applicable requirements in the references cited above, shoes or boots with high traction soles and ankle protection will be used. During geophysical detection activities, UXO support personnel will not wear safety shoes or other footwear that would cause interference with instrument operations.

c. Clothing: Short sleeve shirts and long pants are considered the minimum clothing suitable for UXO support work and will be worn at all work sites, unless variations are described, analyzed and documented in the accepted SSHP.

d. Head Protection: Personnel working in or visiting designated hard hat areas will be required to wear head protection meeting American National Standards Institute (ANSI) Z89.1 standards. Hard hat areas for UXO support activities should not be designated unless the activity hazard analysis shows a possible overhead hazard.

1.64.4.2 PPE Limitations

UXO support personnel using PPE will be knowledgeable of the limitations of the selected PPE as well as the reduced performance levels the equipment might pose while conducting assigned tasks.

1.64.5 Fire Prevention

1.64.5.1 Fire Prevention Awareness

Fire prevention awareness is especially important in areas suspected of being contaminated with UXO. Smoking should only be permitted in controlled areas where all combustibles (e.g., vegetation, fuel cans, sampling supplies) have been removed or sufficient firebreaks have been established. Personnel may attempt to extinguish minor fires with fire extinguishers if they are trained to do so safely without endangering themselves or others within the vicinity of the fire.

1.64.5.2 Uncontrollable Fire

If a fire becomes uncontrollable or extends into areas with unknown UXO contamination, all personnel must immediately suspend any fire fighting efforts and retreat to a safe distance, which is at least the maximum fragment distance of the Most Probable Munition (MPM). Personnel should retreat upwind of the fire. The senior UXO qualified person present should then lead an immediate evacuation of the area using available resources to ensure the safety of all personnel.

1.64.6 Emergency Procedures

UXO support activities may result in accidents or incidents, regardless of the safeguards implemented. All personnel must be briefed on the emergency response procedures and protocols discussed in the Site Safety and Health Plan (SSHP).

1.64.6.1 Emergency Response

In the event of a UXO-related emergency on-site, the senior UXO qualified person present will direct the course of action until the local POC designated in the Work Plan has been notified. It may be necessary for other on-site personnel to provide assistance. If an emergency response rescue operation is required, no one will reenter the accident area until the hazards of the situation have been assessed by the responsible person, and all required resources are on-hand to complete the rescue without jeopardizing the safety of rescue personnel.

1.64.6.2 Emergency Rescue

The senior UXO qualified person or the local POC, as applicable, will direct any UXO related emergency response rescue operation. Response considerations include the following elements:

- (a) Designation of an emergency response vehicle(s) to remain on-site during rescue operations.
- (b) Determination of existing hazards, as well as the potential for additional hazards.
- (c) Coordination with the Contracting Officer.
- (d) Assessment of the situation and condition of any victims.
- (e) Determination of the resources needed for victim stabilization, transport, and additional emergency support.

(f) Enforcement of the Buddy System. No one will be permitted to enter a rescue area alone.

(g) Oversight of the removal of injured personnel from the area.

(h) Consultation with on-site safety officers to establish decontamination protocols. Decontamination of injured parties will be accomplished after stabilization of their medical conditions. This action need not be accomplished if their condition poses immediate threat to the victim's life or may cause additional injury. If contamination is suspected, the victim will be wrapped in material to prevent the spread of contamination during extrication and transport. Emergency medical personnel will be advised on potential injuries, as well as potential contamination, of the patient as early as possible. The patient will not be transported to a medical facility without prior notification of, and coordination with, the receiving facility regarding potential contamination.

1.64.6.3 Mishap Reporting And Investigation Requirements

The following information provides guidelines to be followed for reporting mishaps involving UXO operations.

a. Reporting Requirements. All mishaps will be investigated by the contractor and reported to the Contracting Officer.

(1) The senior UXO-qualified person on-site is responsible for mishap reporting. For subsurface clearance projects in support of construction activities, the contractor's UXO Safety Officer (UXOSO) is responsible for mishap reporting.

(2) Chemical Warfare Materiel (CWM) Incidents. Incidents involving CWM will be identified, documented, and coordinated with special requirements from the Contracting Officer.

b. Investigation Requirements: In the event of a mishap, the contractor will implement emergency procedures and secure the scene to keep unauthorized persons away for their protection and to preserve the evidence for subsequent mishap investigation. On military, Host Nation or U.S. Government installations, the [local authority] [____] maintains the prerogative to investigate explosive mishaps.

1.64.7 Execution

1.64.7.1 Pre-Work Meeting

The UXO team should meet with on-site management and construction personnel and conduct a general pre-work briefing including:

a. Known and suspected site hazards and site specific safety considerations.

b. UXO safety support procedures.

c. Responsibilities and lines of authority for any UXO-related response.

d. Emergency response procedures.

e. A physical preview of the actual construction footprint with the

both the Construction Contractor and the government to discuss visual observations and potential areas of concern. This includes but is not necessarily limited to building and/or war debris, vegetation removal, topography, soil conditions, seasonal climatic conditions, utility locations and sources of electromagnetic Radiation (EMR) in the radio frequency range originating from devices such as radio, radar, television transmitters, antennas, communication and radar devices.

1.64.7.2 Indoctrination, Training And Instruction

The contractor shall ensure that UXO personnel receive the appropriate training, medical surveillance, and personal protective equipment required to safely perform all clearance efforts.

a. Prior to commencement of work UXO personnel shall review archival information regarding the work area and interview personnel knowledgeable of site conditions. The probable types of UXO that is known or suspected and the specific safety considerations for each, shall be ascertained.

b. All employee's engaged in UXO activities shall be instructed in the UXO Work Plan [____] and the Site Safety and Health Plan (SSHP) approved by the Government to the extent necessary to conduct their activities in a safe manner.

c. The Contractor shall develop an attendance roster or a similar document indicating each employee's attendance. Each employee instructed shall be required to sign this document for each and every class, subject and/or topic that instruction was provided for. The Contractor's failure to have an employee's attendance verified in writing, may be cause for the Government to order the Contractor to repeat the instruction where evidence of attendance can not be verified. No part of the time lost due to such repeat instruction shall be made the subject of claim for extension of time or for excess costs or damage by the Contractor. Within ten (10) working days after completion of training conducted in accordance with this clause [and/or the applicable Technical Provision section], the Contractor shall complete and submit TAC Form [356 "Operation and Maintenance] [357 UXO] Training Validation Certificate". The attendance roster shall be included as an attachment to TAC Form [356] [357].

1.64.7.3 Safety Briefings And Visitors

The UXO Contractor shall conduct UXO safety briefings for all site personnel and visitors including explosive ordnance recognition, location, and safety functions.

a. UXO qualified personnel shall meet all visitors and ascertain their specific requirements and objectives, and conduct a general work and safety briefing prior to commencing a transit of any UXO area.

b. Visitors shall be escorted at all times by UXO personnel. Escorted personnel will follow behind the UXO escort. If anomalies or UXO are detected, the UXO escort will halt escorted personnel in place, select a course around the item, and instruct escorted personnel to follow.

1.64.7.4 Safety

a. UXO PLANS: All clearance actions shall be accomplished in strict accordance with the Government approved UXO Work Plan and Site Safety and Health Plan (SSHP).

b. SAFETY SIGNS: All areas known or suspected of containing UXO shall be posted with appropriate signage and cordoned off to prevent inadvertent entry by unwary individuals.

c. EXCLUSION ZONES: Exclusion zones shall be established and clearly identified. During UXO operations, personnel not directly involved in the specific UXO clearance task must be physically escorted to a location outside the exclusion zone.

1.64.7.5 On-Site Authority

The UXO Safety Supervisor (UXOSO) has final on-site authority on all UXO matters.

1.64.7.6 Access Survey

The team must conduct a surface access survey and a subsurface survey for anomalies before any type of activities commence, including foot and vehicular traffic. The team will conduct an access survey of the footpath and/or vehicular lanes approaching and leaving areas with known or suspected UXO contamination. The access route shall be at least twice as wide as the widest vehicle that will use the route. The UXO team must also complete an access survey of an area around the site that is large enough to support all planned operations. The size of the surveyed area will be site-specific and will take into account, for example, maneuverability of required equipment (e.g., drill rigs, excavation equipment, etc.), parking of support vehicles, and establishment of decontamination stations. As a minimum, the surveyed area should have a dimension in all directions equal to twice the length of the longest vehicle or piece of equipment to be brought on-site.

1.64.7.7 Calibration

Prior to use in the field each day, geophysical instrumentation shall be checked for operational reliability and calibration against an item with a known response. Copies of instrument checkout and calibration verification shall be maintained on-site. If calibration checks indicate that the instrument is not operating within an acceptable range and field adjustments do not resolve the discrepancy, the instrument shall be immediately tagged and removed from service.

1.64.7.8 Maintenance

Preventative maintenance shall be performed on a regularly scheduled basis. If an equipment problem is encountered, maintenance shall be performed as soon as possible and records of the unscheduled maintenance and corrective action shall be maintained and shall indicate equipment identification, problem description, corrective action, the person performing the maintenance, and associated costs.

1.64.7.9 Deteriorated Explosives And Damaged Equipment

Explosives or equipment (including accessory equipment) that is

deteriorated or damaged, shall immediately be removed from service.

1.64.7.10 Vibration Perimeter

Prior to commencement of UXO removal work, a vibration free zone shall be determined. This area shall be coordinated with the Contracting Officer and clearly establish what type of machinery and equipment may or may not be operated within the established boundaries.

1.64.7.11 Utilities

The UXO contractor shall coordinate with the appropriate agency(ies) or company(ies) to identify, mark and verify the location of all surface and subsurface utilities. Additionally, the means for their control shall be identified and confirmed, prior to the commencement of work. Subsurface utilities/service lines may include but are not necessarily limited to: electric; gas; water; chilled water; steam; sewer; etc. The UXO team shall take appropriate measures to locate utility lines that may not be made of ferrous material.

1.64.7.12 Flagging

The UXO team will establish a system of flagging colors that will distinguish buried UXO, surface UXO, route boundaries and utilities.

a. When UXO is encountered, it will be marked with survey flagging and pin flags.

b. All located utilities shall be marked by paint, pin flags, or other appropriate means to visually delineate their subsurface routing. The color shall not conflict with the colors used in UXO activities.

1.64.7.13 Excavation Monitoring

The UXO shall monitor all excavation activities in areas potentially contaminated with UXO. One member of the team shall be positioned to the rear and upwind of the excavation equipment for continuous visual observation of activities. If the construction contractor unearths or otherwise encounters suspect UXO, all excavation activities shall cease. The UXO team will assess the condition of the UXO to determine if disposal action is required. Once the UXO has been encountered in an excavation, no further excavation is allowed at that location. Once the UXO has been removed and the UXO team has issued the "All Clear" signal, excavation may continue.

1.64.7.14 Unplanned UXO Discovery

If, during construction activities, UXO is unexpectedly discovered or uncovered, or suspected to be present, all operations shall cease immediately. The contractor shall safeguard the site pending notification and arrival of the UXO team. No further work shall be conducted in that location until the UXO team has assessed the situation to determine if disposal action is required. Once the UXO has been removed and the UXO team has issued an "All Clear" notice, construction work may continue.

1.64.7.15 UXO Destruction

Destruction of recovered UXO can take one of three (3) forms: in-place; on-site; and off-site. The decision regarding which technique should be

used must be based on the nature of the UXO encountered, site-specific characteristics and the risk involved in employing the disposal operation. The decision regarding the technique rests with the UXO Safety Supervisor (UXOSO) who has final on-site authority for all UXO matters. Under no circumstances will UXO destruction activities be conducted with less than a three (3) man team. One member of this team must always be located outside the minimum separation distance for intentional detonations to give warning and assist in rescue activities in the event of an accident.

a. IN-PLACE DESTRUCTION: When an UXO item cannot be safely moved to an alternate location for destruction, In-place destruction (blow-in-place) may be used. Prior to commencement of in-place destruction, the UXO Team shall conduct a joint meeting with the Contracting Officer, the Construction Contractor, and any other stake holders deemed necessary by the Government. The purpose of this meeting is to coordinate the proposed in-place destruction and allow the stakeholders an opportunity to access any potential negative impact. If negative impact is identified, the UXO team shall allow a reasonable time for the stakeholder to implement mitigating measures as appropriate.

b. ON-SITE DESTRUCTION: If UXO is encountered in close proximity to occupied buildings and it is not possible to safely destroy the item in place, the item may be moved to a remote part of the project site where destruction and disposal can safely take place. Engineering controls to minimize the blast effect shall be used when appropriate.

c. OFF-SITE DESTRUCTION: UXO transported off-site for destruction shall be transported in military or civilian vehicles [modified] [manufactured] [created] [built] for the purpose.

(1) Armed fuses will only be transported when absolutely necessary and when all other avenues for in-place disposal have been exhausted.

(2) Base-ejection type projectiles shall be transported with the base oriented to the rear of the vehicle and the projectile secured.

(3) Incendiary loaded munitions shall be placed on a bed of sand and covered with sand.

(4) Loose pyrotechnic, tracer, flare, and similar mixtures shall be placed in # 10 mineral oil or equivalent.

(5) White phosphorus filled munitions shall be immersed in water, mud, or wet sand.

1.64.8 Explosives

Explosives used for the destruction of UXO shall be acquired and managed in accordance with applicable Federal, Host Nation, and local laws and regulations.

1.64.9 Temporary Explosives Storage Facilities

The UXO Contractor shall establish and maintain temporary storage magazine for explosives in accordance with applicable Federal, Host Nation, and local laws and regulations. The Contractor is responsible for determining

and implementing physical security. This includes but is not necessarily limited to adequate fencing, guards, secure doors, key control system, and inventory control.

1.64.10 Procedures For Suspected Chemical Weapons

Munitions containing s chemical substance that is intended to kill, seriously injure, or incapacitate a person through its physiological effects will be considered a chemical weapon.

1.64.10.1 Chemical Weapons Discovery

Any time suspected chemical weapons are encountered, all work will immediately cease. All personnel will withdraw along cleared paths upwind from the discovery. The contractor shall safeguard the site pending notification and arrival of the UXO team. No further work shall be conducted in that location until the UXO team has assessed the situation to determine if the item is a chemical weapon. Personnel shall position themselves as far upwind as possible while still maintaining security of the area.

1.64.10.2 Notification

If the UXO team determines that the item encountered is in fact a chemical weapon, the UXO shall immediately contact the Contracting Officer. With the exception of safeguarding the site, no further action shall be taken pending notification from the Contracting Officer.

1.64.11 Submittal Requirements

The following submittals requiring Government approval shall be submitted in accordance with Section [01330 SUBMITTAL PROCEDURES] [01335 SUBMITTAL PROCEDURES FOR DESIGN/BUILD PROJECTS]:

SD-01 Preconstruction Submittals

UXO Work Plan: A minimum of thirty (30) calendar days prior to proposed start of work, the UXO Contractor shall submit a comprehensive UXO Plan for review and comment by the government. The objective is to conduct safe and efficient operations while limiting potential exposure to a minimum number of personnel for a minimum time and to a minimum amount of UXO. Modifications may be required to the Work Plan and/or the Site Safety and Health Plan (SSHP) after approval by the Contracting Officer. A modification that affects any UXO subsurface clearance operational and/or safety procedures may also require a revision to and re-submittal of the Explosives Siting Plan. At a minimum the plan shall include but not necessarily be limited to the following:

- a. A detailed description of the proposed management approach.
- b. Step-by-step instructions on the proposed operational procedures that will be used to complete the UXO clearance operations specific to this contract.
- c. Comprehensive guidelines indicating the methods and procedures specific to this contract that the UXO team(s) intends to implement to promote safe and efficient operations.
- d. The name, qualifications (in resume format), duties,

responsibilities, and authorities of each person assigned a UXO function.

e. A copy of the letter to each UXO team member signed by an authorized official of the firm which describes the responsibilities and authorities delegated to that individual including authority to stop work which is not in compliance with the contract or, is deemed unsafe.

f. Procedures for tracking UXO work and safety deficiencies from identification through acceptable corrective action. These procedures shall establish verification that identified deficiencies have been corrected.

g. The specific, instrumentation, apparatus, gear, protective gear, machinery, accessories and accouterments the UXO contractor proposes to use including maintenance and calibration schedules.

h. The contractor shall validate the capabilities of geophysical instrumentation by demonstrating that it is capable of detecting the smallest known or anticipated UXO through the use of a test plot. Each piece of geophysical instrumentation shall be tested and the results documented within the UXO Work Plan.

i. A listing of all proposed training and training schedules.

j. Documented listing of archival information researched regarding the area of the proposed construction activities and, the known and suspected types of UXO that may be encountered.

k. Comprehensive reference material detailing the complete specifications, ordnance recognition charts, disarming instructions, unique characteristic's, features, nature, peculiarity(ies), as well as lessons learned concerning each type and variant of UXO that is known or suspected to be encountered.

l. Utility locations and potential sources of Electromagnetic Radiation (EMR) in the radio frequency range originating from devices such as radio, radar, television transmitters, antennas, communication and radar devices.

m. The location of all potential sources of electromagnetic radiation (EMR) in the radio frequency range originating from devices such as radio, radar, and television transmitters, shall be documented. The appropriate agency(ies) or company(ies) responsible for their control, the means for their control, as well as full contact information for the appropriate and backup point-of-contact shall be listed.

n. Pursuant to the Contract Clause, SCHEDULE FOR CONSTRUCTION CONTRACTS, as well as section [01320] [013__] PROJECT SCHEDULE, the contractor shall provide a schedule in an appropriate level of detail to measure the progress of the work, to aid in evaluating time extensions, and to provide the basis for all partial progress payments.

o. The procedures for destruction of recovered UXO recovered and the procedures for in-place, on-site, and off-site destruction of recovered UXO.

p. The procedures for Transportation of UXO detailing the route and

measures that need be enacted prior to engaging in any transport activities as well as the how the Contractor intends to comply with Host Nation and US Laws.

q. The locations of temporary storage magazines for explosives.

r. The plan shall describe the inventory control system to be implemented for explosives management.

s. Bomb Dump Study Report. The existing bomb dump is located [on-site] [off-site] as indicated on drawing [____] [__describe location__]. The travel route, approved for use by the Contractor is also indicated. The Contractor in conjunction with the Contracting Officer, shall inspect the facility and provide a detailed report quantifying all the repairs necessary to restore and/or maintain the facility to full operating condition.

t. The Contractor shall notify the Contracting Officer in writing of any proposed change. Proposed changes are subject to acceptance by the Contracting Officer.

EXPLOSIVES SITING PLAN (ESP): The ESP is a component of the Work Plan and shall be prepared for UXO support during construction activities. The ESP discusses the proposed minimum separation distances for unintentional detonations, intentional detonations, and siting of critical project components.

a. The ESP should describe the basis of design, all design calculations, and proposed hazard mitigation measures to be implemented to protect the public, non-project personnel, and site workers from explosive hazards.

b. The ESP will discuss the following explosives operations: Ordnance and explosive areas, explosives storage magazines, and planned or established demolition areas. The location of these explosives operations will be sited on a map with a minimum scale of 1 inch equals 400 feet. The minimum separation distances calculated for the operation should be discussed in the text of the plan and Quantity-Distance (Q-D) arcs for the above-listed project elements drawn on the map.

c. Quantity-Distance. Explosives safety distance tables prescribe the necessary separations and specify the maximum quantities for various classes of explosives permitted in any one location. These distances will be used for siting storage locations.

d. Ordnance and Explosive Areas. During intrusive operations, safe separation distances will be determined using two sets of minimum separation distance criteria. The first set of criteria shall be established for unintentional detonations (i.e., not planned in advance) and the second set of criteria shall be established for intentional detonations (i.e., planned, controlled detonations).

(1) Unintentional detonations: For an unintentional detonation, the applicable minimum separation distances are the minimum separation distances for unintentional detonations and the team separation distance (TSD). The minimum separation distance for unintentional detonations is the safe separation distance for non-project personnel from intrusive operations. The TSD is the distance that UXO teams must be separated during intrusive

operations.

(2) Intentional Detonations: The minimum separation distance for intentional detonations is the distance that both project personnel and the public must be from the intentional detonation.

e. Explosives Storage Magazines: The ESP should provide the following information on explosives storage magazines:

(1) Type(s) of magazines used (e.g., Bureau of Alcohol, Tobacco and Firearms Classification [Type 1-5], portable commercial, above ground, shed, earth covered, etc.).

(2) Net Explosive Weight (NEW) and hazard division to be stored in each magazine.

(3) Quantity-Distance (Q-D) criteria used to site the magazine.

(4) Design criteria for any proposed engineering controls to be used to mitigate exposures to the public when Q-D criteria cannot be met.

(5) Proposed placarding/signage for Magazines.

f. Planned or Established Demolition Areas. The safe separation distance for these areas will be based on the minimum separation distance criteria for intentional detonations.

g. Footprint Areas. The following footprint areas should be discussed in the ESP: In-place destruction (blow-in-place) , collection points, and in-grid consolidated shots. These areas, however, do not have to be shown on the site map. The safe separation distances for these footprint areas are described in the following paragraphs.

(1) In-place destruction (blow-in-place). Blow-in-place is the preferred method for disposal of UXO. In-place destruction (blow-in-place) occurs when a UXO item is prepared and detonated in-place. The safe separation distances for In-place destruction (blow-in-place) areas will be determined using the minimum separation distance criteria for intentional detonations.

(2) Collection Points. Collection points are areas where recovered UXO that is safe to move is temporarily accumulated within a search grid pending relocation to another area for storage or destruction. Collection points shall be limited to an amount of explosives to be destroyed that will not exceed safe separation distances. The safe separation distances for collection points will be determined using the minimum separation distance criteria for unintentional detonations.

(3) In-Grid Consolidated Shots. In-grid consolidated shots occur when recovered UXO that is safe to relocate is collected and destroyed within a search grid. In contrast to an established demolition ground, consolidated shots occur within a search grid rather than in a separate area.

h. The calculated minimum separation distances for unintentional detonations specified above are considered minimums for safe execution of normal operations.

SITE SAFETY AND HEALTH PLAN (SSHP): The SSHP is a component of the Work Plan and shall be prepared for UXO support during construction activities. The SSHP specifically addresses UXO safety and health considerations and shall be site specific and include task-specific analyses. At a minimum the plan shall include the following:

a. The SSHP shall include all documentation necessary for strict compliance with the requirements stated in EM 385-1-1 SAFETY AND HEALTH REQUIREMENTS MANUAL.

b. A description of site-specific emergency clothing. This shall include a listing of acceptable clothing as well as clothing that is restricted and or prohibited during daily operations.

c. Specific safety considerations that are unique to each type and variant of known or suspected UXO.

d. Emergency response procedures and protocols. Procedures. UXO support activities may result in accidents or incidents, regardless of the safeguards implemented. The SSHP will describe site-specific emergency response procedures, including identification of all appropriate Point-of-Contacts (POC's).

e. Mishap Reporting, Incident Reports and Investigation Requirements. Site-specific reporting and investigation procedures, including identification of appropriate POC's.

f. Safety procedures, protocols and considerations.

g. Proposed medical examinations, surveillance and schedule.

h. Written copy of the safety indoctrination and training briefings given to all on-site personnel. This briefing should address the following:

- (1) Probable site hazards
- (2) Site-specific safety considerations.
- (3) UXO safety support procedures.
- (4) Responsibilities and lines of authority for any UXO-related response.
- (5) Emergency response procedures.

i. In addition to requirements stated elsewhere, a specific Activity Hazard Analysis shall be completed for each type of equipment producing Electromagnetic Radiation (EMR) or Radio Frequency (RF). This includes but is not necessarily limited to all active and passive subsurface detection devices. As part of the Activity Hazard Analysis, the minimum separation distance between an EMR/RF emitting device and potential Electroexplosive Devices (EED) shall be calculated. This calculation shall be based on the following characteristics of the transmitting device and the potential EEDs:

- (1) The transmitter frequency (f, in MHz).

(2) The peak envelope transmitting power (P_t , in W).

(3) The transmitter gain (GdB).

j. A copy of the letter to the UXO Safety Officer (UXOSO) signed by an authorized official of the firm which describes the responsibilities and authorities delegated to that individual including authority to stop work. The qualifications, specific training, knowledge, and experience of the individual proposed will be included as an attachment.

QUALITY CONTROL PLAN (QCP) AND CONTRACTOR QUALITY CONTROL REPORTS:

a. The UXO Contractor shall submit a QUALITY CONTROL PLAN (QCP) for review and comment by the government. This QCP shall be in addition to and supplement the requirements of specification section 01451 CONTRACTOR QUALITY CONTROL. It shall outline the quality control activities that are to be used for continually assessing the implementation, effectiveness, compliance, and adequacy of UXO operations. At a minimum the QCP shall provide procedures for validation of the following:

(1) Surface clearance and related activities are conducted in accordance with accepted plans.

(2) Subsurface clearance and related activities are conducted in accordance with accepted plans.

(3) Actual probabilities of detection are consistent with clearance reliability levels.

(4) Subsurface clearance operations provide for an adequate level of confidence of UXO detection and removal to specified depths.

(5) Disposition of UXO.

(6) After action reports for unplanned UXO discoveries during construction.

b. In addition to the requirements stated in specification section 01451 CONTRACTOR QUALITY CONTROL, the UXO Contractor shall perform daily CQC reviews of all field activities and submit a supplemental CQC report which includes but is not necessarily limited to the following:

(1) A daily report of all activities associated with the identification, removal, transportation, and disposal of unexploded ordnance, including the number of response calls, identification procedures, removal procedures, transportation procedures, and disposal procedures.

(2) A map, at a scale approved by the contracting Officer, that shows the location, type and status of all identified unexploded ordnance. Project sites, work areas, and lay down areas shall also be identified on this map.

(a) Horizontal Accuracy. Horizontally, 95 percent of all excavated items must lie within a 10 centimeter radius of their mapped surface location as marked in the field after reacquisition; 98 percent of all excavated items must lie within a 20 centimeter radius.

(3) A listing of all munitions and UXO components encountered to include positive identification and disposition.

(4) False Positives where UXO anomalies result in no detectable, metallic material during excavations.

c. A copy of the letter to the UXO Contractor Quality Control Officer signed by an officer or authorized official of the firm which describes the responsibilities and authorities delegated to that individual including authority to stop work. The qualifications, specific training, knowledge, and experience of the individual proposed will be included as an attachment.

1.64.12 Public Disclosure

The Contractor shall not publicly disclose any data generated or reviewed under this contract. The contractor shall refer all requests for information concerning site conditions to the Transatlantic Programs Center Public Affairs Office in Winchester, Virginia with a copy to the Contracting Officer. Reports and data generated under this contract are the property of the Department of Defense (DoD) and distribution to any other source by the Contractor is prohibited unless authorized by the Contracting Officer.

1.64.13 Notification Of Noncompliance

The Contracting Officer will notify the Contractor of any detected noncompliance with the foregoing requirements. The Contractor shall take immediate corrective action after receipt of such notice. Such notice, when delivered to the Contractor at the work site, shall be deemed sufficient for the purpose of notification. If the Contractor fails or refuses to comply promptly, the Contracting Officer may issue an order stopping all or part of the work until satisfactory corrective action has been taken. No part of the time lost due to such stop orders shall be made the subject of claim for extension of time or for excess costs or damages by the Contractor.

1.65 NOT USED

1.66 ATTACHMENTS

APPENDIX A - [Exploration Data] [NOT USED]

APPENDIX B - [Identification of Government Furnished Property] [NOT USED]

APPENDIX C - [Blasting Report - Plates 1, 2 and 3] [NOT USED]

TAC FORM 61 - Accident Prevention Program Hazard Analysis

TAC FORM 356 - Operation and Maintenance Training Validation Certificate

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SECTION 01 32 17.00 20

NETWORK ANALYSIS SCHEDULES (NAS)

PART 1 GENERAL

1.1 DESCRIPTION

The network analysis system shall consist of the network analysis schedule (diagram) and associated reports. The scheduling of all procurement and construction shall be the responsibility of the Contractor. Construction increments will be interrelated on a single schedule that represents the entire project duration from Contract Award to the Contract Completion Date. Schedule updates will build upon each other and will include construction increments as they are detailed, submitted and accepted. Submission of progress and revision data will be used to measure work progress, aid in the evaluation for requests for time extensions, and to provide the basis of all progress payments. The Critical Path Method (CPM) of network calculation shall be used to generate the project schedule and will utilize the Precedence Diagram Method (PDM) to satisfy both time and cost applications. All progress payment amounts will be derived from and tied to the cost-loaded schedule activities.

For consistency, when scheduling software terminology is used in this specification, the terms in Primavera's scheduling programs are used. Primavera Project Planner, P3, Primavera Project Manager, SureTrak and PrimeContract are registered trademarks or service marks of Primavera Systems, Inc. Adobe and Acrobat are registered trademarks of Adobe Systems Incorporated.

1.2 SUBMITTALS

Government approval is required for submittals with a "G" designation; submittals not having a "G" designation are [for Contractor Quality Control approval.] [for information only. When used, a designation following the "G" designation identifies the office that will review the submittal for the Government.] Submit the following in accordance with Section 01 33 00 SUBMITTAL PROCEDURES:

SD-01 Preconstruction Submittals

Qualifications; G

Standard Activity ID Dictionary; G

Construction Network Analysis Schedule; G

Baseline Network Analysis Schedule; G

SD-07 Certificates

Monthly Network Analysis Updates; G

[Summary Network; G]

SD-11 Closeout Submittals

As-Built Schedule; G

1.3 SCHEDULE ACCEPTANCE

Review comments made by the Government on the Contractor's schedule(s) will not relieve the Contractor from compliance with requirements of the Contract Documents. The Contractor is responsible for scheduling, sequencing, and prosecuting the Work to comply with the requirements of the Contract Documents. Government acceptance extends only to the activities of the Contractor's schedule that the Government has been assigned responsibility and agrees it is responsible. The Government will also review for contract imposed schedule constraints and conformance, and cost loading of the CPM activities. Comments offered on other parts of the schedule, which the Contractor is assigned responsibility, are offered as a courtesy and are not conditions of Government acceptance; but are for the general conformance with established industry schedule concepts.

1.3.1 Schedule Acceptance Prior to Start of Work

The Baseline Network Analysis Schedule described in the paragraph entitled "Baseline Network Analysis Schedule" must be submitted and accepted by the Government before the Contractor will be allowed to start work on the construction stage(s) of the contract. Examples of construction stages are, but not limited to; demolition, site work, temporary work for construction, etc.

1.3.2 Acceptance

- a. When the **Construction Network Analysis Schedule** is submitted and accepted by the Contracting Officer, it will then be considered the "Baseline Network Analysis Schedule". The **Baseline Network Analysis Schedule** will then be used by the Contractor for planning, organizing, and directing the work; reporting progress; and requesting payment for work accomplished. The schedule will be updated monthly by the Contractor and submitted monthly with the progress pay request to reflect the current status of the work. Submittal and acceptance of the Baseline Network Analysis Schedule and accurate updated schedules accompanying the pay requests are both conditions precedent to processing pay requests. Only bonds will be paid prior to acceptance of the Baseline Schedule(s).
- b. Submittal of the Baseline Network, and subsequent schedule updates, will be understood to be the Contractor's certification that the submitted schedule meets all of the requirements of the Contract Documents, represents the Contractor's plan on how the work will be accomplished, and accurately reflects the work that has been accomplished and how it was sequenced (**as-built schedule** logic).

1.4 SOFTWARE

The scheduling software that will be utilized by the Government on this project is [SureTrak by Primavera Systems, Inc.] [Primavera Project Planner (P3) by Primavera Systems, Inc.]. Notwithstanding any other provision in the contract, schedules submitted for this project must be prepared using either Primavera P3 or Primavera SureTrak (files saved in Concentric P3 format). The Contractor shall provide electronic files saved in a format

that is compatible with the Contracting Officer's current software version. Submission of data from another software system where data conversion techniques or software is used to import into Primavera's scheduling software is not acceptable and will be cause for rejection of the submitted schedule.

1.5 QUALIFICATIONS

The Contractor shall designate a [full time][part time] Scheduler that will be responsible for the development, preparation, and maintenance of an accurate, computerized Network Analysis Schedule. [Full time is defined as the scheduler being on-site during normal work hours to perform on-site coordination, attending project meetings, and updates. The Scheduler shall have no other duties than scheduling for this contract.] [Part time is defined as the Scheduler performing [on-site] coordination, attending project meetings, and updates for [_____] hours per work week.]The Scheduler shall have previously developed, created and maintained at least [2][_____] previous computerized schedules of similar size and complexity of this contract. A resume outlining the qualifications of the Scheduler and their SureTrak or P3 training certificate from an authorized Primavera trainer shall be submitted for acceptance to the Contracting Officer. If at a later date, the Contracting Officer considers the Contractor's Scheduler to be incompetent or objectionable, the Contractor will propose a new Scheduler, meeting the qualification requirements. Payments will not be processed until an acceptable Scheduler is provided.

1.6 NETWORK SYSTEM FORMAT

The system shall consist of time scaled logic diagrams and specified reports.

1.6.1 Diagrams

Show the order and interdependence of activities and the sequence in which the work is planned to be accomplished. The basic concept of the network analysis diagram will be followed to show how the start of a given activity is dependent on the completion of preceding activities and how its completion restricts or restrains the start of following activities. Activity durations shall not be resource-driven, activities shall start according to network logic and finish when its duration has elapsed. Diagrams shall be [organized by [Work Phase][Area Code],] sorted by Early Start Date and will show a continuous flow from left to right with no logic (relationship lines) from right to left. With the exception of the Contract Award, Start Project and End Project milestone activities, no activities will be open-ended; each activity will have predecessor and successor ties. The diagram shall clearly show the activities of the critical path and must be red in color. Once an activity exists on the schedule it may not be deleted or renamed, and must remain in the logic. No more than [20][_____] percent of the activities may be critical or near critical. Critical will be defined as having zero days of Total Float. "Near critical" will be defined as having Total Float in the range of [1 to 14][[_____] to [_____] days. Show the following information on the diagrams for each activity:

- a. Activity ID
- b. Activity Description
- c. Original Duration in Work Days

- d. Remaining duration
- e. Actual Duration in Work Days
- f. Early Start Date
- g. Early Finish Date
- h. Total Float

Provide network diagrams on [tabloid (11X17)] [ANSI D] [ANSI E] sheets. Updated diagrams shall show the date of the latest revision.

1.6.2 Schedule Activity Properties and Level of Detail

Numbering shall be assigned so that, in general, predecessor activity numbers are smaller numerically than the successor activity numbers. Skip numbering shall be used on the network to allow insertion of additional activities for contract modifications and logic changes. The minimum number of construction activities in the final network diagram shall be [____]. Activity categories included in the schedule are specified below.

1.6.2.1 Activity Categories

- a. Procurement Activities: Tasks related to the procurement of material or equipment shall be included as separate activities in the project schedule. Examples of procurement activities include, but are not limited to; Material/equipment submittal preparation, submittal and approval of material/equipment; delivery of O&M manuals; material/equipment fabrication and delivery, delivery of extra parts, extra stock, special tools, notification of Government Furnished Material/Equipment delivery requirement, etc. As a minimum, separate procurement activities will be provided for every specification section. If the Contractor intends on using Just-In-Time (JIT) delivery methods, the schedule will show each JIT delivery with relationship tie to the Construction Activity specifically for the JIT delivery. Material and equipment for which payment will be requested in advance of installation shall be cost-loaded with the procurement costs (e.g.; the delivery milestone(s)). All activities within a procurement process/cycle will have a unique identifier in the activity code to show their relationships and will extend to the related construction activities (i.e., CSI Code).

If the Government's action on any submittal is "Disapproved" or "Revise and Resubmit", a new series of Procurement Activities will be inserted into the schedule. Predecessor for the new submittal preparation activity will be the original approval activity and the successor of the new approval activity will be the fabrication/deliver activity for the equipment or material.

- b. Government Activities: Government and other agency activities that could impact progress shall be clearly identified. Government activities include, but are not limited to; Government approved submittal reviews, Government conducted inspections/tests, environmental permit approvals by State regulators, utility outages, Notice(s) to Proceed [(including

Notices to Proceed for each Fast-Track Phase as indicated in other sections of this specification and as directed by the Contracting Officer)]and delivery of Government Furnished Material/Equipment. Show activities indicating Government furnished materials and equipment utilizing delivery dates indicated in "FAR 52.245-2, Government Property (Fixed-Price Contracts)." Government activities will be driven by calendars that reflect Saturdays, Sundays and all Federal Holidays as non-work days.

- c. Design and Permit Activities: Include design and permit activities with the necessary conferences and follow-up actions and design package submission dates. Include the design schedule in the project schedule, showing the sequence of events involved in carrying out the project design tasks within the specific contract period. This shall be at a detailed level of scheduling sufficient to identify all major design tasks, including those that control the flow of work. The schedule shall include review and correction periods associated with each item
- d. Construction Quality Management (CQM) Activities: CQM Activities will identify the Preparatory Phase and Initial Phase for each Definable Feature of Work identified in the Contractor's Quality Control Plan. These activities will be added to each 3-Week Look Ahead Schedule referenced in the paragraph entitled "THREE-WEEK LOOK AHEAD SCHEDULE" and will also be included in each monthly update referenced in the paragraph entitled "[Monthly Network Analysis Updates](#)". The Follow-up Phase will be represented by the Construction Activities in the Baseline Schedule and in the schedule updates.
- e. Construction Activities: Construction activities shall include, but are not limited to: Tasks related to mobilization or demobilization; the installation of temporary or permanent work by tradesman; testing and inspections of installed work by technicians, inspectors or engineers; start-up and testing of equipment; commissioning of building and related systems; scheduling of specified manufacture's representatives; Punch Out Inspection; Pre-Final Inspection, Final Acceptance Inspection; final clean-up; training to be provided; and administrative tasks necessary to start, proceed with, accomplish or finalize the contract. No onsite construction activity shall have a duration in excess of 20 working days. Contractor activities will be driven by calendars that reflect Saturdays, Sundays and all Federal Holidays as non-work days.
- [f. Hammock (Summary) Activities: The Contractor shall include special activities that are a summary of a chain of activities. The start of the activity will be the start date of the first activity in the chain and the finish date will be the finish date of the last activity in the chain. Generalized work sequences, Area Codes and Phase Codes will be summarized.]

1.6.2.2 Project Milestones

Dates shall be shown on the diagram for the start of the project, any contract required interim start and completion dates, contract completion date and other significant milestones.

- a. Project Start Date Milestones: The schedule shall start no earlier than the Contract Award Date and the project duration (Day 1) will start on the Notice-to-Proceed (NTP) date. The Contractor shall include as the first milestone in the schedule, an activity named "Contract Award". Another milestone shall be included that will be named "Start Project". The Contract Award and Project Start milestones shall have mandatory start constraint dates equal to the Contract Award and NTP dates, respectively.
- b. Constraint of Last Activity Milestone: The Contractor shall include as the last activity in the project schedule, an activity named "End Project". The "End Project" activity shall have a mandatory finish constraint equal to the contract completion date for the project. Calculation of project updates shall be such that if the finish of the last activity falls after the contract completion date, then the float calculation shall reflect negative float on the critical path and if the finish of the last activity falls before the contract completion date, the float calculation shall reflect positive float on the critical path. The only predecessor activity to this activity will be either the "Contractor Early Completion" or the "Substantial Completion" milestone, whichever is used by the Contractor.
- c. Early Project Completion: In the event the Contractor's project schedule shows completion of the project prior to the contract completion date, the Contractor shall include an activity named "Contractor Early Completion". The activity shall be a milestone with an unconstrained date representing the Contractor's Early Completion date. The only successor activity to this activity will be the "End Project" milestone.
- d. Substantial Completion: If the Contractor elects to include an activity for Substantial Completion, then it is agreed that Substantial Completion will be the point in time that the Government considers the project is complete and ready for its intended use. The activity will be named "Substantial Completion". The activity shall be a milestone with an unconstrained date representing the Contractor's Substantial Completion date. The only successor activity to this activity will be the "End Project" milestone.
- [e. Phase Start Milestone: The Contractor shall include as the first activity for a project phase, an activity named "Start Phase X", where "X" identifies the phase of work. The "Start Phase X" activity shall have an unconstrained start date equal to the date of the Phase NTP. This unconstrained start date is not a release from contractually required start dates, but is left unconstrained to allow the schedule logic to calculate without hindrance.
- f. End Phase Milestone: The Contractor shall include as the last activity in a project phase, an activity named "End Phase X" where "X" identifies the phase of work. The "End Phase X" activity shall have an unconstrained late finish date equal to the contract phase completion date. This unconstrained completion date is not a release from contractually required finish dates, but is left unconstrained to allow the schedule logic to calculate without hindrance.
- g. Early Phase Completion: If the Contractor expects to finish prior

to the contract phase completion date, the milestone will show an early finish date equal to the Contractor's early finish date. The name of the activity will be "Early Phase Completion" and will have an unconstrained date representing the Contractor's early phase completion date.]

1.6.2.3 Activity Identification (ID) and Description

- a. **Standard Activity ID Dictionary:** The Contractor shall submit the alphanumeric coding scheme for Schedule Activity Numbers that shall be used throughout the project. The coding scheme submitted shall list the values for each activity code and translate those values into project specific designations. Code length shall not exceed [10][_____] characters. Once accepted, the coding scheme will be used for the duration of the project.
- b. **Activity Description:** Each activity shall have a narrative description consisting of a Verb or work function (e.g.; form, pour, excavate), an Object (e.g.; slab, footing, under floor plumbing), and Area (e.g.; 3rd floor, northeast quadrant, basement).

1.6.2.4 Activity Code Dictionary and Values

The Contractor shall establish the activity codes identified in this specification. The codes will have values assigned that will allow the scheduling program to sort, select, group and organize the activities in the schedule. Activity codes include, but are not limited to, the following codes:

- [a. **Phase Code:** If phasing is specified in the contract, all activities shall be identified in the project schedule by the Phase Code in which the activity occurs. Activities shall not be contained in more than one Phase.]
- b. **Area Code:** All activities shall be identified in the project schedule by the Area Code in which the activity occurs. Activities shall not be contained in more than one Area Code. Area is defined as distinct separations in construction, such as a story of construction, separate structure, usage or function difference, utility distribution systems, etc.
- c. **Responsibility Code:** All activities in the project schedule shall be identified with the party responsible to perform the task. Responsibility includes, but is not limited to; the Prime Contractor, subcontracting firm, or Government agency performing a given task. Activities shall not belong to more than one responsible party. The responsible party for each activity shall be identified by a responsibility code. For example, a responsibility code value, "ELEC", may be used to identify the "Electrical Subcontractor".
- d. **CSI Code:** All activities in the project schedule shall be identified with its respective 5-digit Specification Section number. Activities shall not belong to more than one Section number. If an activity does not have an applicable CSI Code, (such as "Mobilize"), the code will be "00000".
- e. **Drawing Code:** All activities in the project schedule shall be

identified with its respective project Drawing Code. The Drawing Code is the Sheet Number on the primary project drawing, which indicates the work to be performed. Activities shall not belong to more than one Drawing Code. Examples of Drawing Codes are "C-10", "C.10" or "C10". The code system will allow organizing all activities by Drawing Code in alpha and numeric order. If an activity does not have an applicable Drawing Code, (such as "Mobilize"), the code will be "00000".

- f. Modification Code: The Modification Code shall identify activities that are modified or added by contract modification. Activities shall not belong to more than one Modification Code. The Government will assign the modification number, which will be shown on the Standard Form 30. Use a shortened version of the modification number for the code (e.g.; A00010 = 010).
- g. Request for Equitable Adjustment (REA) or Claim Code: Activities that are modified or added, as a result of a Contractor's REA or Claim shall be identified by a code generated by the Contractor. Activities shall not belong to more than one REA or Claim Code.

1.6.2.5 Cost and Resource Loading

- a. Cost Loading Activities: Equipment costs will be assigned to their respective Procurement Activities (i.e., the delivery milestone activity). Costs for installation of the material/equipment (labor, construction equipment, and temporary materials) will be assigned to their respective Construction Activities. The value of inspection/testing activities will not be less than [10][_____] percent of the total costs for Procurement and Construction Activities. Evenly disperse overhead and profit to each activity over the duration of the project. The total of all cost loaded activities; including costs for material and equipment delivered for installation on the project, and labor and construction equipment loaded construction activities, shall total to 100 percent of the value of the contract.
- b. Quantities and Units of Measure: Each cost loaded activity will have a detailed breakdown of the contract price, giving quantities for each of the various kinds of work, unit prices, etc. These entries are informational only and are non-calculating. Quantities shall be entered as Log Text 1 (in SureTrak) or Log 1 (in P3) for each activity, column heading will be "Quantities". Units of Measure shall be entered as Log Text 2 (in SureTrak) or Log 2 (in P3) for each activity, column heading will be "Units of Measure".
- [c. Labor Resource Loading: As part of the Baseline Schedule development each construction activity shall have an estimate of the number of workers per day by trade, hours per day by trade and total expected hours used by trade during the execution of the activity. If no workers are required for an activity, then the activity shall be identified as using zero workers per day. All labor resources loaded into the schedule shall be non-driving and will not be used to calculate activity cost or duration. Resource leveling shall not be used.[Actual labor resource expended on an activity will be recorded in the monthly updated schedules and will coincide with entries made in the Daily Reports.]

- d. Equipment Resource loading: As part of the Baseline Schedule development each construction activity shall have an estimate of the equipment used per day, number of units per day and total expected hours for each piece of equipment used during the duration of the activity. Include a description of the major items of construction equipment planned for each construction activity on the project. The description shall include the year, make, model, and capacity. If no equipment is required for an activity, then the activity shall be identified as using zero equipment per day. All equipment resources loaded into the schedule shall be non-driving and will not be used to calculate activity cost or duration. Resource leveling shall not be used. [Actual equipment resource expended on an activity will be recorded in the monthly updated schedules and will coincide with entries made in the Daily Reports.]]

1.6.2.6 Anticipated Weather Delays

Schedule activity duration(s) shall be formulated with allowance for normal adverse weather conditions. Any activity duration, which could be impacted by normally anticipated adverse weather (precipitation, high or low temperature, wind, etc.), due to the time period that the Contractor has scheduled the work, shall include an adjustment to include the anticipated weather delay. The Contractor shall anticipate delay by comparing the contractually imposed environmental restrictions in the Contract Documents to the National Oceanic and Atmospheric Association's (NOAA) historical monthly averages for the NOAA location [at (Enter NOAA Station here)][closest to the project site]. The number of anticipated adverse weather delays allocated to an activity will be reflected in the activity's calendar. A lost workday, due to weather conditions, is defined as a day in which the Contractor's workforce cannot work 50 percent or more of the day on the impacted activity(s). The Contractor shall immediately notify the Contracting Officer when a lost day has occurred due to weather, will record on the Daily Reports the occurrence of adverse weather and resultant impact to the normally scheduled work. If the number of actual adverse weather delay days exceeds the number of days anticipated, the Contracting Officer will convert any qualifying delays to calendar days, giving full consideration for equivalent fair weather work days and issue a modification in accordance with the contract clauses.

1.6.2.7 Schedule Software Settings and Restrictions

- a. Activity Constraints: Date/time constraint(s), other than those required by the contract, will not be allowed unless accepted by the Contracting Officer. Contractor will identify any constraints proposed and provide an explanation for the purpose of the constraint in the Narrative Report.
- b. Lags: Lags will not be used when the creation of an activity will perform the same function (e.g., concrete cure time). Lag durations contained in the project schedule shall not have a negative value. Contractor will identify any lag proposed and provide an explanation for the purpose of the lag in the Narrative Report.
- c. Default Progress Data Disallowed: Actual Start and Finish dates shall not be automatically updated by default mechanisms that may be included in the CPM scheduling software system. Actual Start and Actual Finish dates on the CPM schedule shall match the dates

provided from Contractor Quality Control and Production Reports. These reports will be the sole basis for updating the schedule. Work activities will be updated by actual work progression rather than being cash flow driven. Actual labor and equipment hours used on activities will be derived from the Daily Reports.

- d. Software Settings: If the contractor chooses to use Primavera's SureTrak software, the Autocost Rules shall be set to:

- 1) Uncheck - Link Remaining Duration and Schedule Percent Complete;
- 2) Check - Use Updated Percent Complete Against Budget to Estimate Actual to Date;
- 3) Check - Freeze Resource Units per Hour When Quantities Change;
- 4) Check - Update Cost and Revenue Information; and,
- 5) Set Resource Data to "Two decimal places".

If the contractor chooses to use Primavera's P3 software, the AutoCost rules shall be set as shown below, all others shall be deactivated (i.e.; check boxes and radio buttons not filled in):

- 1) Use the update percent complete against budget to estimate: Actual cost to date.
- 2) Link budget and EAC for non-progressed activities: Budget-EAC.
- 3) Perform these calculations during each schedule computation: Apply these rules when moving from one Resource to another.

Schedule calculations and Out-of-Sequence progress (if applicable) shall be handled through Retained Logic, not Progress Override. All activity durations and float values will be shown in days, time will not be shown in the duration display. Activity progress will be shown using Remaining Duration. Date format will be DDMMYY (i.e., 11DEC02). Default activity type will be set to "Task".

1.6.3 Required Tabular Reports

The following reports will be based on the information in the paragraph entitled "Diagrams" and included with the schedule submittals and in each updated schedule submission provided on disk by the Contractor:

- a. Earned Value Report: Listing all activities having a budget amount and cost. A compilation of total earnings on the project from the notice to proceed to the most recent monthly progress payment request and the difference between the previous request amount and the current payment request amount. Sort report first by resource and then by activity.
- b. Log Report: With each updated schedule submission, provide a computer generated Log Report using a recognized schedule comparison software listing all changes made between the previous schedule and current updated schedule. Identify the name of the previous schedule and name of the current schedule being compared. This report will as a minimum show changes for: Added & Deleted Activities, Original Durations, Remaining Durations, Activity Percent Complete, Total Float, Free Float, Calendars, Descriptions, Constraints (added, deleted or changed), Actual Starts/Finishes, Added/Deleted Resources, Resource Quantities, Costs, Resource Percents, Added/Deleted Relations, Changed Relation Lags, Changed Driving Relations, and Changed Critical

Status.

- [c. Activity ID Report: By activity number in ascending order showing the current status of all activities.]
- [d. Total Float Report: List of all activities by total float in ascending order and then in order of [activity number] [early start date].]
- [e. Early Start Report: By earliest allowable start dates and then in order of activity number.]
- [f. 30-Day Look Ahead: Activities in progress or scheduled to start or finish within the next 30 calendar days of the project Data Date or is continuing through the 30 day period.]
- [g. Predecessor/Successor Report: By activity number from lowest to highest, showing preceding and succeeding activity numbers for each activity and showing the current status of each activity.]
- [h. Labor Staffing Report and Histogram: With each Baseline Network Analysis Schedule submittal[and each updated schedule], a planned early and planned late[versus actual] labor resource report and histogram will be provided.[The report and histogram shall be based upon and shall be in agreement with, the number of shifts and crew sizes by craft, in the Baseline Network Analysis Schedule (planned) and the Monthly Network Update (actual). Included in the report will be a tabular listing of each trade that worked on the activities during the construction period.]
- i. Equipment Usage Report and Histogram: With each Baseline Network Analysis Schedule submittal[and each updated schedule], a planned early and planned late[versus actual] equipment resource report and histogram will be provided.[The report and histogram shall be based upon and shall be in agreement with the equipment allocation in the Baseline Network Analysis Schedule (planned) and the Monthly Network Update (actual). Included in the report will be a tabular listing of equipment (by year, make and model) that worked on the activities during the construction period.]]

1.7 SUBMISSION AND ACCEPTANCE

1.7.1 Preliminary Meeting

Prior to the preparation of the Construction Network Analysis Schedule for acceptance; the Contracting Officer, Co/
Not used.

PART 3 EXECUTION

Not used.

-- End of Section --

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 - 3.12.9 Plumbing
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- 3.13 GOVERNMENT APPROVED CONSTRUCTION SUBMITTALS (Required During Construction)
 - 3.13.1 General
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- 3.14 FOR INFORMATION ONLY SUBMITTALS
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SECTION 01 33 00.12 10

SUBMITTAL PROCEDURES FOR DESIGN-BUILD PROJECT

PART 1 GENERAL

1.1 REFERENCE

The publication listed below forms a part of this specification to the extent referenced. The publication is referenced to in the text by basic designation only.

CONSTRUCTION SPECIFICATIONS INSTITUTE

| | |
|--------------------|---------------------------------------|
| Manual of Practice | Construction Specifications Institute |
| | 601 Madison Street |
| | Alexandria, Virginia |
| | 22314-1791 |

NATIONAL INSTITUTE OF BUILDING SCIENCES (NIBS)

| | |
|--------------------------------------|--|
| Unified Master Reference List (UMRL) | National Institute of Building Sciences 1090 Vermont Avenue, NW, Suite 700 Washington, DC 20005-4905 Email: nibs@nibs.org FAX: (202) 289-1092 Tele: (202) 289-7800 |
|--------------------------------------|--|

TRANSATLANTIC PROGRAMS CENTER

| | |
|----------------------------|---|
| Design Instructions Manual | U.S. Army Corps of Engineers Transatlantic Programs Center 201 Prince Frederick Drive Winchester, Virginia 22602 |
|----------------------------|---|

1.2 SUBMITTAL CLASSIFICATION

Submittals are classified as follows:

1.2.1 DESIGN SUBMITTALS

Contractor Furnished design submittals are the various design documents which primarily consist of specifications, drawings and design analysis and calculations. The Design-Build Contractor shall not begin construction work until the Government has reviewed the Design-Build Contractor's final design and has cleared it for construction. Clearance for construction shall not be construed as meaning Government approval. Unless otherwise indicated, the risk for the design is the sole responsibility of the Design-Build Contractor.

1.2.2 CONSTRUCTION SUBMITTALS

1.2.2.1 Contractor Furnished Government Approved Construction Submittals

Government approved construction submittals are primarily related to plans (Contractor Quality Control, Accident Prevention, Resident Management System, Area Use etc) schedules (Project Schedule/Network Analysis), and certificates of compliance. They may also include proposed variations to approved design documents in accordance with the paragraph entitled "VARIATIONS".

1.2.2.2 For Information Only Construction Submittals (FIO)

All submittals not requiring Designer of Record or Government approval will be for information only.

1.3 SUBMITTAL CERTIFICATION

The CQC organization shall be responsible for certifying that all submittals and deliverables have been reviewed in detail for completeness, are correct, and are in strict conformance with the contract drawings, specifications, and reference documents.

1.3.1 Effective Quality Control System

The Design-Build Contractor is responsible for quality control and shall establish and maintain an effective quality control system in compliance with Contract Clause 52.236-21 SPECIFICATIONS AND DRAWINGS FOR CONSTRUCTION - ALTERNATE I and specification section 01451 CONTRACTOR QUALITY CONTROL.

1.3.1.1 Organizational Responsibility

The quality control system shall cover all design, construction, subcontractor, manufacturer, vendor, and supplier operations at any tier, both onsite and offsite.

1.3.1.2 CQC System Manager Review and Approval

Prior to submittal, all items shall be checked and approved by the Design-Build Contractor's Quality Control (CQC) System Manager. If found to be in strict conformance with the contract requirement, each item shall be stamped, signed, and dated by the CQC System Manager. Copies of the CQC organizations review comments indicating action taken shall be included within each submittal.

1.3.1.3 Determination of Compliance

Each submittal shall be complete and in sufficient detail to allow ready determination of compliance with contract requirements by the Contracting Officer.

1.3.2 Responsibility for Errors or Omissions

It is the sole responsibility of the Design-Build Contractor to ensure that submittals do or do not comply with the contract documents. Government review, clearance for construction, or approval by the Contracting Officer shall not relieve the Design-Build Contractor from responsibility for any errors or omissions in such drawings, nor from responsibility for complying with the requirements of this contract.

1.3.2.1 Government Review

Government review, clearance for construction, or approval of post design construction submittals shall not be construed as a complete check, but will indicate only that the general method of construction, materials, detailing and other information are satisfactory.

1.3.3 Substitutions

After design submittals have been reviewed and cleared for construction by the Contracting Officer, no resubmittal for the purpose of substituting materials or equipment will be considered unless justified as indicated in the paragraph entitled VARIATIONS.

1.3.4 Additional Submittals

In conjunction with Contract Clause 52.236-5 MATERIAL AND WORKMANSHIP, the Contracting Officer may request submittals in addition to those specified when deemed necessary to adequately describe the work.

1.3.5 Untimely and Unacceptable Submittals

If the Design-Build Contractor fails to submit submittals in a timely fashion, or repetitively submits submittals that are not in strict conformance with the contract documents, no part of the time lost due to such actions shall be made the subject of claim for extension of time or for excess costs or damages by the Design-Build Contractor.

1.3.6 Stamps

Stamps shall be used by the Design-Build Contractor on all design and post design construction submittals to certify that the submittal meets contract requirements and shall be similar to the following:

Design-Build Contractor (Firm Name)
Contract Number
Contract Name

I certify that this submittal accurate, is in strict conformance with all contract requirements, has been thoroughly coordinated and cross checked against all other applicable disciplines to prevent the omission of vital information, that all conflicts have been resolved, and that repetition has been avoided. It is complete and in sufficient detail to allow ready determination of compliance with contract requirements by the Contracting Officer.

Name of CQC System Manager: _____

Signature of CQC System Manager: _____

Date: _____

1.4 ENGLISH LANGUAGE

All specifications, drawings, design analysis, design calculations, shop drawings, catalog data, materials lists, and equipment schedules submitted

shall be in the English language.

1.5 UNITS OF MEASUREMENT

Design documents shall be prepared in accordance with the guidance offered in SECTION 01415 METRIC MEASUREMENTS.

The metric units used are the International System of Units (SI) developed and maintained by the General Conference on Weights and Measures (CGPM); the name International System of Units and the international abbreviation SI were adopted by the 11th CGPM in 1960.

1.5.1 Drawings

All site layout data shall be dimensioned in meters or coordinates, as appropriate. All details and pipe sizes shall be dimensioned in millimeters.

EXAMPLE: Masonry openings shall be a U.S. module to suit a standard U.S. door. The dimensions of the opening shall be given in SI units.

1.5.2 Design Calculations

Calculations shall be in English or SI units as deemed appropriate by the designer to meet the requirements of the design. Quantities on the contract drawings stated in metric units, shall also be stated in SI units in the design analysis to match the drawings.

1.5.3 Specifications

All equipment and products shall be specified by U.S. standards and described by SI units.

1.6 WITHHOLDING OF PAYMENT FOR SUBMITTALS

1.6.1 Design Submittals

Payment for Design work will not be made in whole or in part until the Government has reviewed and cleared the design for construction.

1.6.2 Construction Submittals

Payment for materials incorporated in the work will not be made if required approvals have not been obtained. In event under separate clause of the contract, the Design-Build Contractor is allowed partial or total invoice payment for materials shipped from the Continental United States (CONUS), and/or stored at the site, the Design-Build Contractor shall with his request for such payment, submit copies of approvals (ENG Form 4025) certifying that the materials that are being shipped and/or stored have been approved and are in full compliance with the contract technical specifications.

PART 2 PRODUCTS

2.1 GENERAL

The following are contract deliverables which expound upon and finalize the design parameters/requirements outlined within the contract documents. They shall be prepared in such a fashion that the Prime Contractor is

responsible to the Government and not as an internal document between the Prime Contractor and its Subcontractors, Vendors, Suppliers, etc.

2.2 DESIGN ANALYSIS

A design analysis, written in the English Language with English units of measure (and SI units in parenthesis), shall be submitted for review by the Government. The design analysis is a written explanation of the project design which is expanded and revised (updated) as the design progresses. The design analysis shall contain all explanatory material giving the design rationale for any design decisions which would not be obvious to an engineer reviewing the final drawings and specifications. The design analysis contains the criteria for and the history of the project design, including criteria furnished by the Government, letters, codes, references, conference minutes, and pertinent research. Design calculations, computerized and manual, are included in the design analysis. Narrative descriptions of design solutions are also included. Written material may be illustrated by diagrams and sketches to convey design concepts. Catalog cuts and manufacturer's data for all equipment items, shall be submitted. Copies of all previous design phase review comments and the actions assigned to them shall be included with each submission of the design analysis. Specific requirements for the design analysis, listed by submittal phase, are contained hereinafter.

2.3 DESIGN CALCULATIONS

When they are voluminous, they shall be bound separately from the narrative part of the design analysis. The design calculations shall be presented in a clean and legible form incorporating a title page and index for each volume. A table of contents, which shall be an index of the indices, shall be furnished when there is more than one volume. The source of loading conditions, supplementary sketches, graphs, formulae, and references shall be identified. Assumptions and conclusions shall be explained. Calculation sheets shall carry the names or initials of the computer and the checker and the dates of calculations and checking. No portion of the calculations shall be computed and checked by the same person.

2.3.1 Automatic Data Processing Systems (ADPS)

When ADPS are used to perform design calculations, the design analysis shall include descriptions of the computer programs used and copies of the ADPS input data and output summaries. When the computer output is large, it may be divided into volumes at logical division points.

2.3.1.1 Computer Printouts

Each set of computer printouts shall be preceded by an index and by a description of the computation performed. If several sets of computations are submitted, they shall be accompanied by a general table of contents in addition to the individual indices.

2.3.1.2 Preparation of the Description

Preparation of the description which must accompany each set of ADPS printouts shall include the following.

- a. Explain the design method, including assumptions, theories and formulae.

- b. Include applicable diagrams, adequately identified.
- c. State exactly the computation performed by the computer.
- d. Provide all necessary explanations of the computer printout format, symbols, and abbreviations.
- e. Use adequate and consistent notation.
- f. Provide sufficient information to permit manual checks of the results.

2.4 SPECIFICATIONS

Specifications shall be prepared in accordance with the Construction Specifications Institute(CSI) format. The Design-Build Contractor prepared specifications shall include as a minimum, all applicable specifications sections referenced by the CSI. Where the CSI does not reference a specification section for specific work to be performed by this contract, the Design-Build Contractor shall be responsible for creating the required specification.

2.4.1 Preparation of Proprietary Non-Generic Design Documents

During the course of design, the designer, shall specify specific proprietary materials, equipment, systems, and patented processes by trade name, make, or catalog number. The subsequent use of construction submittals to supplant and/or supplement incomplete design effort is unacceptable. Design submittals containing non-proprietary and/or generic design criteria where proprietary items are available, will be returned for resubmission.

2.4.2 Use of Unified Facilities Guide Specifications (UFGS)

If UFGS are used, it is the sole responsibility of the Design-Build Contractor to prepare these specifications in strict conformance with the paragraph entitled PREPARATION OF PROPRIETARY NON-GENERIC DESIGN DOCUMENTS. UFGS containing non-proprietary and/or generic design criteria where proprietary items are available, will be returned for resubmission. If the UFGS contains a "SUBMITTALS" paragraph, the Design-Build Contractor shall delete it and incorporate all required information directly into the design documents. Under no circumstances will the Design-Build Contractor be permitted to use submittals and shop drawings to finalize an incomplete design.

2.4.3 Quality Control and Testing

Specifications shall include required quality control and further indicate all testing to be conducted by the Design-Build Contractor, its subcontractors, vendors and/or suppliers.

2.4.4 Ambiguities and indefinite specifications

Ambiguities, indefinite specification requirements (e.g., highest quality, workmanlike manner, as necessary, where appropriate, as directed etc)and language open to interpretation is unacceptable.

2.4.5 Industry Standards

2.4.5.1 U.S. Industry Standards

The Specifications shall be based on internationally accepted U.S. industry Standards. Customarily accepted publications may be found in the UNIFIED MASTER REFERENCE LIST (UMRL) which may be located at the following URL:

<http://www.ccb.org/welcome.py>

To access the UMRL select the "Unified Facilities Guide Specifications" tab and scroll down to Unified Master Reference List (UMRL) (PDF version).

This document lists publications referenced in the Unified Facilities Guide Specifications (UFGS) of the Corps of Engineers (USACE), the Naval Facilities Engineering Command (NAVFAC), the Air Force Civil Engineer Support Agency (AFCEA), and the guide specifications of the National Aeronautics and Space Administration (NASA). This document is maintained by the National Institute of Building Sciences (NIBS) based on information provided by the agencies involved and the standards producing organizations. The listing is current with information available to NIBS on the date of this publication.

Standards referenced in specifications and drawings prepared by the Design-Build Contractor shall be by specific issue; the revision letter, date or other specific identification shall be included.

2.4.5.2 Non U.S. Industry Standards

If non U.S. industry standards (e.g., codes, regulations, or technical references and norms) are authorized for use under this contract and are incorporated in the Design-Build Contractor's design, one (1) copy of each standard referenced shall be provided to the Government.

2.4.6 Incorporation of Government review comments

Subsequent to submission to the Government, the specifications shall be finalized by the incorporation of Government review comments.

2.5 DRAWINGS

Drawings, prepared in the English language with SI units of measure, are a part of each submittal. The working drawings shall be adequately labeled and cross-referenced for review. Complete, thoroughly checked and coordinated contract drawings shall be submitted. The contract drawings submitted for final review shall include the drawings previously submitted which have been revised and completed as necessary. The Design-Build Contractor shall have incorporated any design review comments generated by previous design review(s), have completed all of his constructability and coordination checks, and have the drawings in a Ready-to-Build condition. The drawings shall be complete at this time and contain all the details necessary to ensure a clear understanding of the work throughout construction.

2.5.1 Drawing Size

All drawings shall be prepared in size "A1" sheets (594mm by 841mm) or if approved by the contracting Officer of an internationally recognized size approximately 24 inches (60 cm) by 36 inches (90 cm). Drawings shall be

trimmed to size if necessary.

2.5.2 Computer Assisted Design and Drafting (CADD)

Computer Assisted Design and Drafting (CADD) is required for all work related to this contract. The CADD deliverables shall meet the requirements of the [Transatlantic Programs Center Design Instructions Manual, Chapter 22 entitled COMPUTER ASSISTED DESIGN AND DRAFTING.] [The Contractor shall furnish the digital as-built drawing files in [_____] [the format native to the latest version in common use of Bentley MicroStation CADD.] Drawings prepared in any convention other than CADD, must have approval of the Contracting Officer.

2.5.3 Plotter Prepared Original Drawings

Plotter prepared original drawings shall be prepared on 20 pound bond paper, unless otherwise approved and shall be plotted on the matte side. Raster plotters must provide a minimum resolution of 400 dpi while vector plotters shall provide a minimum resolution of 0.0010 inch with an accuracy of +0.1% of the move and a repeatability error of not more than 0.005 inch. Drawings produced from dot matrix plotters are not acceptable. Plots accompanied by the digital design file may be prepared on vellum: translucent bond is not acceptable. Line density shall be equivalent to that produced by black India ink: half-tones and gray scale plots are not acceptable unless otherwise approved. Manual changes to plotted originals are not acceptable.

2.5.4 Half-Size Reduction

Preparation of all work shall accommodate half size reduction unless instructed otherwise by the Contracting Officer.

2.5.5 Symbols and Abbreviations

Symbols and abbreviations shall be in accordance with the Transatlantic Programs Center (TAC) Design Instructions Manual, Chapter 2, and/or conform to the symbols used with a CADD program such as Bentley Microstation.

2.5.6 Design Discipline Designation Format

The drawing package shall be divided into the following proposed divisions:

| Discipline Designation | Discipline |
|------------------------|---------------------------------------|
| C | Civil |
| XE | Exterior Electrical and Communication |
| XM | Exterior Mechanical |
| S | Structural |
| P | Plumbing, Process and Piping |
| M | Mechanical Design |
| FP | Fire Protection and Life Safety |
| E | Electrical |

Each drawing for the particular facility shall be designated by the discipline designation and sheet number (e.g., E-6 is the sixth Electrical drawing, E-7 is the seventh Electrical drawing etc.). Standard detail drawings sheet reference numbers shall have the letters "S" preceding the discipline. (Example: SE-6).

2.5.7 Grouping Drawings

A building or individual facility design shall, except for site development drawings, be grouped in the design drawing package so that a single building may be withdrawn by deleting or removing a consecutive block of sheets.

2.5.8 Title and Revision Block

Title and revision block shall match FIGURE 1 through 5 furnished in the paragraph entitled ATTACHMENTS.

2.5.9 Drawing Scales

The scales indicated on the following list shall, in general, be used for all drawings. The Contractor may, at its option, make exceptions to scales indicated, if approved in writing by the Contracting Officer.

Site, Grading and Utility Plans - 1:500

Key Plans as large as practical

Cross Sections - 1:10

Details - As required for clarity

2.5.10 Binding

All volumes of drawing prints shall be firmly bound and shall have covers of heavier bond than the drawing sheets. If posts are used to fasten sheets together, the drilled holes on the bond edges of the sheets shall be on 8-1/2-inch centers.

2.5.11 Typical Sheets

Typical sheets of standard details uniformly used on all buildings are authorized and encouraged. Sheets of standard details may be prepared so that they can be reused if the design package must be divided into separate construction packages. Each typical detail drawing sheet may be limited to a particular design discipline. Standard detail sheets shall be organized by discipline as are the other drawing sheets. Details peculiar to one facility shall not be shown in the standard details but with the group of drawings for the facility to which it pertains.

2.5.12 Index Sheet(s)

The first sheet of each volume in a project shall be a cover sheet. In general, the second sheet shall be the first index. Multiple index sheets may be required, depending on the project size. All index sheets shall be included with each volume of drawings and shall be an index of all the individual drawings in all volumes. The index shall list sequentially the site development drawings, each facility's drawings, and the standard details drawings (if any), and shall locate them by volume and file number. Each index sheet shall be signed and stamped by a principal of the Design-Build Contractor.

2.5.13 Drawing File Number

The File Number is unique to each drawing and is a combination of a project

location code, project number, facility designator and the CADD file name. Unassigned numbers or skipped sheets shall be labeled as "Not Used" on the index sheets. Cover sheets are not numbered.

2.5.14 Specifications Placed on the Drawings

Details of standard products or items which are adequately covered by specifications shall not be included on the drawings.

2.5.15 Legends

For each submittal, legends of symbols and lists of abbreviations shall be placed on the drawings. They shall include all of the symbols and abbreviations used in the drawing set, but shall exclude any symbols and abbreviations not used. Since many symbols are limited to certain design disciplines, there is a definite advantage to the use of separate legends on the initial sheet of each design discipline or in the Standard Details package for each discipline. If legends have not been shown by discipline, a legend shall be placed on the first drawing.

2.5.16 Location Grid

To facilitate the location of project elements and the coordination of the various disciplines' drawings, all plans shall indicate a column line or planning grid, and all floor plans (except structural plans) shall show room numbers.

2.5.17 Composite and Key Plans

If the plan of a large building or structure must be placed on two or more sheets in order to maintain proper scale, the total plan shall be placed on one sheet at a smaller scale. Appropriate key plans and match lines shall appear on segmented drawings. Key plans shall be used not only to relate large scale plans to total floor plans but also to relate individual buildings to complexes of buildings. Key plans shall be drawn in a convenient location and shall indicate the relative location of the represented plan area by crosshatching.

2.5.18 Revisions

Drawing revisions shall be prepared only on the original CADD files. A revision area is required on all sheets.

PART 3 EXECUTION

3.1 GENERAL

3.1.1 Design Concept Coordination Meeting

In addition to regular meetings with the Government the Contractor shall conduct formal status briefings on a [monthly][quarterly] basis to provide a management overview of design development. Shortly after contract award the Government may choose to conduct meetings with the Design-Build Contractor to refine proposal concept features. The purpose of the meeting is to assure attention to project requirements and to suggest ways of improving the design prior to tentative level submissions.

3.1.2 Government Design Changes

Government design changes which do not increase construction costs shall be made at no charge to the Government. The Contracting Officer may request design submittals in addition to those listed when deemed necessary to adequately describe the work covered in the contract documents. Submittals shall be made in the respective number of copies and to the respective addresses set forth in the paragraph entitled SUBMITTAL PROCEDURE. Each submittal shall be complete and in sufficient detail to allow ready determination of compliance with contract requirements.

3.2 SUBMITTAL REGISTER

Contractor-Furnished Design Documents shall be incorporated in the NAS and ENG FORM 4288, Submittal Register. Refer to Section 01 32 17.00 20 for details.

3.2.1 Construction Submittal Register (ENG Form 4288)

Attached to this section is ENG Form 4288 which the Contractor is responsible for developing for the design-build portion of this contract. All design and construction submittals shall be shown on this register. The submittal register shall be the controlling document and will be used to control all construction submittals throughout the life of the contract. The Contractor shall maintain and update the register on a monthly basis for the Contracting Officer's approval.

A copy of the initial ENG FORM 4288 and each monthly update prepared by the Contractor, shall be submitted to:

U.S. Army Corps of Engineers
Transatlantic Programs Center (CETAC-CD-Q attn: J. Funkhouser)
201 Prince Frederick Drive
Winchester, Virginia 22602

3.3 TRANSMITTAL FORM (ENG Form 4025)

The transmittal form (ENG Form 4025) generated in the QCS module of RMS shall be used for submitting both design and construction submittals in accordance with the instructions on the reverse side of the form. This form shall be properly completed by filling out all the heading blank spaces and identifying each item submitted. Special care will be exercised to ensure proper listing of the specification paragraph and/or sheet number of the contract drawings pertinent to the data submitted for each item.

3.4 PROGRESS SCHEDULE

The Contractor shall prepare and submit a design progress schedule to the Contracting Officer as part of the NAS monthly updates. The progress schedule shall show, as a percentage of the total design price, the various items included in the contract and the order in which the Contractor proposes to carry on the work, with dates on which he will start the features of the work and the contemplated dates for completing same. Significant milestones such as review submittals shall be annotated. The Contractor shall assign sufficient technical, supervisory and administrative personnel to insure the prosecution of the work in accordance with the progress schedule. The Contractor shall correct the progress schedule at the end of each month and shall deliver copies to the

Contracting Officer as required in NAS. The updated Project Schedule shall be used to measure the progress of the work, to aid in evaluating time extensions, and to provide the basis of all progress payments.

3.5 SCHEDULING

3.5.1 Design Submittals

Adequate time (a minimum of fifteen (15) calendar days exclusive of mailing time) shall be allowed for review and clearance for construction. If the Contractor fails to submit design submittals in a timely fashion, or repetitively submits design submittals that are not in strict conformance with the contract documents, no part of the time lost due to such actions shall be made the subject of claim for extension of time or for excess costs or damages by the Contractor.

3.5 SUBMITTAL PROCEDURE

3.5.1 Design Submittals

3.5.1.1 Transatlantic Programs Center (TAC)

[Nine (9)] [____ (____)] copies of all design submittals shall be transmitted to the Government at the following stateside address by means of ENG Form 4025:

U.S. Army Corps of Engineers
Transatlantic Programs Center
ATTN: CETAC-CD-Q (J. Funkhouser)
201 Prince Frederick Drive
Winchester, Virginia 22602

[_____]

The drawings shall be submitted in [full size] [half size].

3.5.1.2 Resident/Area Engineer Office

[Two (2)] [____ (____)] additional copy[ies] of each design submittal shall be transmitted to the overseas field office administering the construction portion of the contract at the following address:

[_____]

The drawings shall be submitted in [full size] [half size].

3.5.1.3 Deliverables "R-Cleared for Construction"

Once the Design Documents have been "Cleared for Construction" by the Contracting Officer (R code), the Design-Build Contractor shall clearly identify each document by annotating it as "Cleared for Construction". One (1) complete hardcopy and CD set of all finalized design documents shall be submitted to the Government as follows:

U.S. Army Corps of Engineers
Transatlantic Programs Center
ATTN: CETAC-EN-T-Service Unit (S. Trussell)
201 Prince Frederick Drive
Winchester, Virginia 22602

[Resident] [Area] Engineer Office [____]

[_____]

3.5.1.4 Editable CADD Format As-Builts

In accordance with section 01060 SPECIAL CLAUSES clause PREPARATION OF AS-BUILT DRAWINGS (CONTRACTOR), one (1) set of the Government approved As-Builts shall be submitted to the following address in an editable CADD format:

U.S. Army Corps of Engineers
Transatlantic Programs Center
ATTN: CETAC-EN-T-Service Unit (S. Trussell)
201 Prince Frederick Drive
Winchester, Virginia 22602

This requirement is in addition to all other submission requirements stated elsewhere in the contract.

3.5.1.5 Digital Transmission of Design Submittals

The Design-Build Contractor [shall] [at its option will be permitted to] submit design deliverables addressed by this specification in digital format. The following procedure shall be followed:

- a. USE OF FILE TRANSFER PROTOCOL (FTP) SERVER. The Design-Build contractor will download all design files on either its own File Transfer Protocol (FTP) Server or on the Corps FTP Server. The procedure to be followed will be established at the Pre-Construction Conference and the appropriate log-in and password information will be exchanged between the Government and the Design-Build Contractor.
- b. TRANSLATED OR CONVERTED FILES DRAWING FILES. Digital drawing files shall be prepared as indicated in the paragraph entitled COMPUTER ASSISTED DESIGN AND DRAFTING (CADD). Under NO circumstances shall the Design-Build Contractor translate (or convert) the files from one CADD software program to another (e.g., from Autocad to Bentley MicroStation).
- c. NOTIFICATION. The Design-Build Contractor shall notify all recipients by email that the Design submittal has been downloaded to the designated FTP server and is ready for Government review. This email shall include a scanned copy of the ENG Form 4025 signed by the Design-Build Contractor's Contractor Quality Control (CQC) Organization. It shall also include an updated digital copy of TAC ENG Form 4288. The Government will use the digital submittal as an advance copy pending receipt of an official hardcopy version in accordance with the paragraph entitled SUBMITTAL PROCEDURE. Subsequent to a period of demonstrated successful performance, the Government may elect to eliminate the requirement to submit an official hardcopy version.

The ENFG Form 4288 shall be prepared in a spread sheet software that readily allows the file to be saved as a *.CSV file that can subsequently be imported into the Corps of Engineers Resident Management System (RMS) software.
- d. RETURN OF GOVERNMENT REVIEWED SUBMITTALS. Subsequent to the Government review, the Eng Form 4025 with comments (if applicable) will

be returned to the Design-build Contractor digitally by email. Hardcopies of these documents will subsequently be submitted to the Design-Build Contractor via the United States Postal Service (USPS). The Government may elect to stop sending hardcopies if it deems that digital transmission of design submittals is progressing satisfactorily.

e. SUPPLEMENTAL ACTIONS. All supplemental actions, resubmittals, and subsequently scheduled submissions shall be performed by the Design-Build contractor as indicated within this paragraph.

3.5.2 Post Design Construction Submittals

[Four (4)] [____ ()] copy[ies] of all post design construction submittals shall be transmitted to the overseas field office administering the construction portion of the contract at the following address:

[_____]

[One (1)] [()] additional copy[ies] of each Post Design Construction submittal shall be transmitted to the Government at the following stateside address by means of ENG Form 4025:

U.S. Army Corps of Engineers
Transatlantic Programs Center
ATTN: CETAC-CD-Q (J. Funkhouser)
201 Prince Frederick Drive
Winchester, Virginia 22602

[_____]

Submittals of Operations and Maintenance (O & M) Manuals in [()] seven (7) copies shall be as follows:

U.S. Army Corps of Engineers
Transatlantic Programs Center
ATTN: CETAC-EC-CD-Q (J. Funkhouser)
201 Prince Frederick Drive
Winchester, Virginia 22602

3.5.3 Submittal Numbering System

Instructions on the numbering system to be used for construction submittals follows:

3.5.3.1 Submittals

Submittals shall be listed on the Submittal Register (ENG Form 4288 and the Quality Control System (QCS) module) as follows:

- a. List is prepared according to contract specifications and drawings, picking up all items involved in the project.
- b. This list is divided into sections as indicated in the specifications for example:

01 31 13.12 10 (01060) Special Clauses

| | |
|-------------------------|---|
| 01 80 00.12 10 (01015) | Technical Requirements |
| 01 32 01.00 10 (01320) | Project Schedule |
| 01 32 17.00 20 (01321) | Design-Build Network Analysis Schedules (NAS) |
| 01 33 00. 12 10 (01335) | Submittal Procedures for Design- Build Project |
| 01 45 04.00 10 (01451) | Contractor Quality Control |
| 01 35 29.00 10 (01525) | Safety and Occupational Health Requirements |

3.5.3.2 Numbering procedures for transmittal on ENG FORM 4025

a. Each section may include a list of items. All these items will then be listed with a progressive number within the sections they belong to, for example:

Sec. 01 31 13.12 10 will have 01311312 (Basic number)
 Item x will have 01311312-1
 Item y will have 01311312-2
 Item z will have 01311312-3

Sec. 01 80 00.12 10 will have 01800012 (Basic number)
 Item x will have 01800012-1
 Item y will have 01800012-2
 Item z will have 01800012-3

Sec. 01 32 01.00 10 (01320) will have 01320100 (Basic number)
 Item x will have 01320100-1
 Item y will have 01320100-2
 Item z will have 01320100-3

Sec. 01 45 04.00 10 (01451) will have 01450400 (Basic number)
 Item x will have 01450400-1
 Item y will have 01450400-2 etc.

b. It is evident a transmittal will never show a Section number i.e., 01800012, 01320100 etc., since these are only the basic numbers of the system. Numbers on transmittals will be the item numbers, i.e., 01311312-1, 01800012-13, 01320100-3, 01450400-2 etc. All items, as listed on the Submittal Register, will be submitted via a separate transmittal form ENG FORM 4025 thus avoiding getting together more than one item (as listed) and more than one number. There are items, on the other hand, which may be submitted all together on the same transmittal form. This must be established before submission is made.

c. Section 01 80 00.12 10 (01015) Technical Requirements - this section will have basic number 01800012 - all items relative to it will be listed one by one on separate lines. ONLY one transmittal number will then be given for all of the item numbers listed. Each one of these items will be listed on the same Transmittal Number e.g., 01800012-5 in block "a" of ENG Form 4025 as item No.1, item No, 2, item No. 3, as follows:

| | |
|-------------|---|
| Item No.: 1 | 75% Specifications |
| Item No.: 2 | 75% Drawings for Facility 1 |
| Item No.: 3 | 75% Drawings for Facility 2 |
| Item No.: 4 | 75% Design Analysis |
| Item No.: 5 | 75% Catalog Cuts |
| Item No.: 6 | 75% Manufacturers Written Installation Instructions |
| Item No.: 7 | Disposition of Government Comments for 50% design Submittal |

3.5.3.3 Resubmittals

Should the Contractor be required to resubmit any transmittal, it will be accomplished by utilizing the same transmittal number followed by the number ".1" for the first resubmittal, ".2" for the second resubmittal, ".3" for the third resubmittal, etc. For example, a first resubmittal for specification section 01 80 00.12 10 TECHNICAL REQUIREMENTS would be written as 01800012-1.1, the second resubmittal would be written as 01800012-1.2, etc. The purpose of this system is to avoid deviations from Submittal Register as well as to avoid confusion arising from the use of more than one number on transmittal when more than one item number is submitted on the same form. This system will also facilitate the use, wherever required, on spread sheets and is compatible with specification section 01 45 02.00 10 (01312) QUALITY CONTROL SYSTEM (QCS).

3.5.4 Variations

If design documents or construction submittals show variations from the contract parameters and/or requirements, the Contractor shall justify such variations in writing, at the time of submission. Additionally, the Contractor shall also annotate block "h" entitled "variation" of ENG FORM 4025. After design submittals have been reviewed and cleared for construction by the Contracting Officer, no resubmittal for the purpose of substituting materials, equipment, systems, and patented processes will be considered unless accompanied by the following:

- a. Reason or purpose for proposed variation, substitution, or revision.
- b. How does quality of variation compare with quality of the specified item. This shall be in the form of a technical evaluation tabulating differences between the item originally specified and what is proposed.
- c. Provide a cost comparison. This shall include an acquisition and life cycle cost comparison.
- d. For proprietary materials, products, systems, and patented processes a certification signed by an official authorized to certify in behalf of the manufacturing company that the proposed substitution meets or exceeds what was originally specified.
- e. For all other actions, a certification signed by a licensed professional engineer or architect certifying that the proposed variation or revision meets or exceeds what was originally specified.
- f. Advantage to the Government, if variation is approved, i.e. Operation and Maintenance considerations, better product, etc.
- g. Ramifications and impact, if not approved.

If the Government review detects any items not in compliance with contract requirements or items requiring further clarification, the Contractor will be so advised. Lack of notification by the Contracting Officer of any non-complying item does not relieve the Contractor of any contractual obligation.

3.5.5 Non-Compliance

The Contracting Officer will notify the Contractor of any detected noncompliance with the requirements of this specification. The Contractor shall take immediate corrective action after receipt of such notice. Such notice, when delivered to the Contractor at the worksite, shall be deemed sufficient for the purpose of notification. If the Contractor fails or refuses to comply promptly, the Contracting Officer may issue an order stopping all or part of the work until satisfactory corrective action has been taken. No part of the time lost due to such stop orders shall be made the subject of claim for extension of time or for excess costs or damages by the Contractor.

3.7 REVIEW OF CONTRACTOR PREPARED DESIGN DOCUMENTS

3.6.1 General

The work under contract will be subject to continuous review by representatives of the Contracting Officer. Additionally, joint design review conferences with representation by all organizations having a direct interest in the items under review may be held. The Design-Build Contractor shall furnish copies of all drawings and related documents to be reviewed at the review conference on or before the date indicated by the Government. Additional conferences pertaining to specific problems may be requested by the Design-Build Contractor or may be directed by the Contracting Officer as necessary to progress the work. The Design-Build Contractor shall prepare minutes of all conferences and shall furnish two copies to the Contracting Officer within seven (7) days after the conference.

3.6.2 Independent Design Review

The Design-Build Contractor shall have someone other than the Designer or Design Team perform an independent review of all specifications, drawings, design analysis, calculations, and other required data prior to submission to the Government. Upon completion of this review, the Design-Build Contractor shall certify that each design submittal is complete, accurate, is in strict conformance with all contract requirements, that repetition has been avoided, that all conflicts have been resolved, and that the documents have thoroughly coordinated and cross checked against all the applicable disciplines to prevent the omission of vital information.

3.6.3 Contractor's Quality Control Organization Review

This review shall be for the purposes of eliminating errors, interferences, and inconsistencies, and of incorporating design criteria, review comments, specifications, and any additional information required. Design submittals submitted to the Contracting officer without evidence of the Contractor's certified approval will be returned for resubmission. No part of the time lost due to such resubmissions shall be made the subject of claim for extension of time or for excess costs or damages by the Contractor.

3.6.4 Government Review

The contractor shall not begin construction work until the Government has

reviewed the contractor's design and has cleared it for construction. Clearance for construction does not mean Government approval. Government review shall not be construed as a complete check but will evaluate the general design approach and adherence to contract parameters. The Government Review is often limited in time and scope. Therefore, the Contractor shall not consider any review performed by the Government as an excuse for incomplete work. Upon completion of the review, all comments will be forwarded to the Contractor. The Contracting Officer will indicate whether the design submittal has or has not been cleared for construction using the following action codes:

- G - Cleared for Construction
- G - Cleared for Construction, except as noted in attached comments
- G - Cleared for Construction, except as noted in attached comments, resubmission required
- G - NOT Cleared for Construction, see attached comments, resubmission required
- FX - Receipt acknowledged, does not comply as noted with contract requirements.

These codes shall **NOT** be used by the Design-Build Contractor. Design-Build Contractor's Quality Control Organization will annotate Block "g" entitled "FOR CONTRACTOR USE CODE" of Eng Form 4025-R using the action codes listed on the reverse side of the form.

Design submittals Cleared for Construction by the Contracting Officer shall not relieve the Contractor from responsibility for any design errors or omissions and any liability associated with such errors, nor from responsibility for complying with the requirements of this contract.

3.6.4.1 Incorporation of Government Review Comments

The Contractor will be furnished comments from the various design sections of the Corps of Engineers Transatlantic Programs Center (TAC), as well as from other concerned agencies involved in the review process. The review will be for conformance with the technical requirements and parameters of the contract documents. The Contractor shall either incorporate each comment or, if the Contractor disagrees technically and does not intend to comply with the comment(s), clearly outline with ample justification, its reasons for its noncompliance within five (5) days after receipt of the comment(s). Additionally, the Contractor is cautioned in that if it believes the action required by any comment exceeds the requirements of this contract, that he should take no action and notify the Contracting Officer in writing immediately. The disposition of all comments shall be furnished in writing with the next scheduled submittal. The review comments and the submittal material for each design review will become the basis for any ensuing design work. Copies of the design review comments with the action taken on each comment noted, shall be bound in all succeeding volumes of the design analysis.

3.6.4.2 Conferences

As necessary, conferences will be conducted between the Design-Build contractor and the Government to resolve review comments.

3.6.4.3 Design Deficiencies

Design deficiencies noted by the Government shall be corrected prior to the start of design for subsequent features of work which may be affected by, or need to be built upon, the deficient design work.

3.6.5 Design Discrepancies

The Design-Build Contractor shall be responsible for the correction of incomplete design data, omissions, and design discrepancies which become apparent during construction. The Design-Build Contractor shall provide the Contracting Officer with a proposed recommendation for correcting a design error, within three (3) calendar days after notification by the Contracting Officer. The Contracting Officer will notify the Design-Build Contractor of any detected noncompliance with the foregoing requirements. The Design-Build Contractor shall take immediate corrective action after receipt of such notice. Such notice, when delivered to the Design-Build Contractor at the worksite, shall be deemed sufficient for the purpose of notification. If the Design-Build Contractor fails or refuses to comply promptly, the Contracting Officer may issue an order stopping all or part of the work until satisfactory corrective action has been taken. No part of the time lost due to such stop orders shall be made the subject of claim for extension of time or for excess costs or damages by the Design-Build Contractor. Should extensions of design, fabrication plans and/or specific manufacturer's details be required as a result of a Government issued Change Order, the Government will make an equitable adjustment in accordance with Contract Clause 52.243-4 entitled CHANGES.

3.7 Phased or "Fast-Track" Design

3.7.1 General

It is the Governments intention to "Fast-Track" the design for this contract. Design and construction sequencing shall be executed on an incremental basis as each approved phase of intrinsically related activities (e.g., demolition; geotechnical assessment; sitework; exterior utilities; foundations; slab-on-grade, superstructure, exterior closure, roofing, interior framing to include intrinsically related rough-in of mechanical, electrical, interior finishes, etc.) of the design is completed. It is essential that phased design, to include the review process, be scheduled to produce construction approvals that support proper sequencing of all construction activities according to the accepted progress schedule.

3.7.1.1 Design Phases

The design phases shall be in accordance with the Contractor Furnished Design Documents Submittal Register (ENG FORM 4288 as accepted by the Contracting Officer).

3.7.1.2 Acceptance of ENG Form 4288

In all cases, ENG Form 4288 indicating the proposed phasing shall be submitted for review and acceptance by the contracting Officer prior to initiation of any procurement action or commencement of any construction.

3.7.2 Sequence of Design-Construction (Fast-Track)

After receipt of the Contract Notice to Proceed (NTP) the Contractor shall

initiate design, comply with all design submission requirements and obtain Government review of each submission. The contractor may begin construction on portions of the work for which the Government has reviewed the final design submission and has determined satisfactory for purposes of beginning construction. The Contracting Officer will notify the Contractor when the design is cleared for construction. The Government will not grant any time extension for any design resubmittal required when, in the opinion of the Government, the initial submission failed to meet the minimum quality requirements as set forth in the contract.

3.7.3 Notice-to-Proceed for Limited Construction

If the Government allows the Contractor to proceed with limited construction based on pending minor revisions to the reviewed Final Design submission, no payment will be made for any in-place construction related to the pending revisions until they are completed, resubmitted and are satisfactory to the Government.

3.7.4 In-Place Construction Payment

No payment will be made for any in-place construction until all required submittals have been made, reviewed and are satisfactory to the Government.

3.7.5 Commencement of Construction

Construction of work may begin after receipt of the clearance for construction (Notice to Proceed) for each design phase. Any work performed by the Contractor prior to receipt of the clearance for construction, shall be at the Contractor's own risk and expense. Work cleared for construction that does not conform to the design parameters and/or requirements of this contract shall be corrected by the Contractor at no additional cost or time to the Government.

3.8 DESIGN STAGES

The Contractor shall schedule the number and composition of the design submittal phases. Design submittals are required at the [Concept (35%)] [Preliminary (50%)] [and] Final (99%) design stages and at the Ready-to-Advertise (100%) stage. The requirements of each design stage are listed hereinafter. The number and contents of the design submittals phases shall be reflected in ENG Form 4288 as well as in the Contractor's design progress schedule.

3.8.1 [3.9.1 Concept Review Submittal (35%)

The review of this submittal is primarily to ensure that the Contractor has taken an inventory of the existing conditions at each proposed site, has established the most desirable functional relationships between the various project elements, has provided the technical solution to how the functional and technical requirements will be met, and to show Contractor compliance (or justify noncompliance) with the design parameters and/or requirements. The following documents shall be submitted:

_____]

3.8.2 [3.9.2 Preliminary Review Submittal (50%)

The review of this submittal is primarily to insure that the contract documents and design analysis are proceeding in a timely manner and that

the design criteria is being correctly interpreted. The submittal shall consist of the following:

- a. Design Analysis
- b. Draft Construction Specifications
- c. Construction Drawings
- d. Environmental permits, as required. When environmental permits are not required, the Contractor shall provide a statement with justification to that effect.]

3.8.3 Final Design Review Submittal (99%)

The review of this submittal is to insure that the design is in accordance with directions provided the Contractor during the design process. The only effort remaining between the FINAL DESIGN REVIEW SUBMITTAL and the "CLEARED FOR CONSTRUCTION" DESIGN REVIEW SUBMITTAL is the incorporation of the Government Review Comments. The Contractor shall submit the following documents for Final review:

- a. Design Analysis, developed to a 99% design stage. The Design Analysis shall be in its final form. It shall include all backup material previously submitted and revised as necessary. All design calculations shall be included. The Design Analysis shall contain all explanatory material giving the design rationale for any design decisions which would not be obvious to an engineer reviewing the Final Drawings and Specifications.
- b. 99% Complete Construction Specifications. The Draft Specifications on all items of work submitted for Final Review shall consist of marked-up proprietary specifications.
- c. 99% Complete Construction Drawings. The Contract Drawings submitted for Final Review shall include the drawings previously submitted which have been revised and completed as necessary. The Contractor is expected to have completed all of his coordination checks and have the drawings in a design complete condition. The drawings shall be finalized at this time including the incorporation of any design review comments generated by the Preliminary design review. The drawings shall contain all the details necessary to assure a clear understanding of the work throughout construction.
- d. The Government's 50% Design Review Comments with the Contractor's annotation to each comment.

3.8.4 "Cleared for Construction" Design Review Submittal (100%)

After the FINAL DESIGN REVIEW SUBMITTAL review, the Contractor shall revise the Contract Documents by incorporating any comments generated during the FINAL DESIGN REVIEW SUBMITTAL and shall prepare final hard copy Construction Specifications. The Contractor shall submit the following documents for the design complete submittal:

- a. Design Analysis
- b. Construction Specifications

c. Construction Drawings

d. The Government's FINAL (99%) DESIGN REVIEW SUBMITTAL comments with the Contractor's annotation to each comment.

Once the design documents have been "Cleared for Construction" by the Contracting Officer, the Design-Build Contractor shall clearly identify each document by annotating it as "Cleared for Construction."

3.8.5 Partial Design Submittals

In the interest of expediting construction, the Contracting Officer may accept partial design submittals, procurement of materials and equipment, as well as authorize construction of those elements of the design which have been cleared for construction. Such partial releases to proceed shall be solely at the discretion of the Contracting Officer.

3.8.6 Design Submittals not in compliance with the contract documents

The Contractor shall, without additional compensation, correct or revise any errors or deficiencies in its design analysis, specifications, and drawings, and promptly furnish a corrected submittal in the form and number of copies as specified for the initial submittal. No part of the time lost due to such resubmissions shall be made the subject of claim for extension of time or for excess costs or damages by the Contractor. If the Contractor considers any correction indicated on the submittals to constitute a change to the contract, a written notice shall be given promptly to the Contracting Officer.

3.9 GENERAL DESIGN INSTRUCTIONS

3.9.1 Responsibility of the Design-Build Contractor

3.9.1.1 Professional Quality, Technical Accuracy, and Coordination

The Design-Build Contractor shall be responsible for the professional quality, technical accuracy, and the coordination of all design specifications, drawings, and other services furnished under this contract. Work must be organized in a manner that will assure thorough coordination between various details on drawings, between the various sections of the specifications, and between the drawings and specifications. The Design-Build Contractor shall thoroughly cross-check and coordinate all work until he is professionally satisfied that no conflicts exist, vital information has not been omitted, and that indefinite language open to interpretation has been resolved.

3.9.1.2 Deviating From The "Cleared-For-Construction" Design

(a.) The Contractor must obtain the approval of the Designer of Record (DOR) and the Government's concurrence for any Contractor proposed revision to the professionally stamped and sealed design reviewed and Cleared for Construction by the Government, before proceeding with the revision.

(b.) The Government reserves the right to non-concur with any revision to the design, which may impact furniture, furnishings, equipment selections or operations decisions that were made, based on the reviewed and cleared for construction design.

(c.) Any revision to the design, which deviates from the contract requirements (i.e., the RFP and the accepted proposal), will require a modification, pursuant to the Changes clause, in addition to Government concurrence. The Government reserves the right to disapprove such a revision.

(d.) Unless the Government initiates a change to the contract requirements, or the Government determines that the Government furnished design criteria are incorrect and must be revised, any Contractor initiated proposed change to the contract requirements, which results in additional cost, shall strictly be at the Contractor's expense.

(e.) The Contractor shall track all approved revisions to the reviewed and cleared for construction design and shall incorporate them into the as-built design documentation, in accordance with section 01060 SC entitled PREPARATION OF AS-BUILT DRAWINGS (CONTRACTOR). The Designer of Record shall document its professional concurrence on the As-Built for any revisions by affixing its stamp and seal on the drawings and specifications.

3.9.1.3 Government Oversight

The extent and character of the work to be done by the Design-Build Contractor shall be subject to the general oversight, supervision, direction, control, and review by the Contracting Officer.

3.9.1.4 Unlimited Drawing Rights

The Government shall have unlimited rights in all drawings, designs, specifications, notes and all other works developed in the performance of this contract, including the right to use same on any other Government design or construction without additional compensation to the Design-Build Contractor. The Design-Build Contractor hereby grants to the Government a paid-up license throughout the world to all such works to which he may assert or establish any claim under design patent or copyright laws.

3.9.1.5 Conflicts

Any conflicts, ambiguities, questions or problems encountered by the Design-Build Contractor in following the criteria shall be immediately submitted in writing to the Contracting Officer with the Design-Build Contractor's recommendations. Prior to submission to the Government the Design-Build Contractor shall take appropriate measures to obtain clarification of design criteria requirements, to acquire all pertinent design information, and to incorporate such information in the work being performed.

3.9.1.6 Design Specialists

Whenever a design specialist is required, the Design-Build Contractor shall submit for the approval by Contracting Officer, the name of the designated specialist along with the individual's educational background, experience, and licenses or registrations held, before design work commences. The design specialists shall be registered architects, registered professional engineers, or recognized consultants with a background of at least five (5) years design experience in the appropriate specialty. [Services of design specialists may be required for the following specialties:]

| | |
|-----------------------|-------------------------------------|
| [Fire Protection] | [Landscape Design] |
| [Food Service Design] | [Irrigation Design (Horticultural)] |
| [Medical Design] | [Stage/Theater Design] |
| [Acoustical Design] | [Interior Design] |
| [Educational Design] | [Security] |
| [Telecommunications] | [Audio Visual, PA, TV, etc.] |
| [Geotechnical Design] | [Hardened Structures] |
| [Asbestos Abatement] | [X-Ray Shielding] |
| [EMF Shielding] | [_____] |

3.9.2 Conduct of Work

In the performance of contract the Design-Build contractor shall:

3.9.2.1 Performance

Perform the work diligently and aggressively, and promptly advise the Contracting Officer of all significant developments.

3.9.2.2 Telephone Conversations

Prepare a summary, and promptly furnish a copy thereof to the Contracting Officer, of all telephone conversations relating to the design work under this contract.

3.9.2.3 Cooperation with Others

Cooperate fully with other firms, consultants and contractors performing work under the program to which this contract pertains, upon being advised by the Contracting Officer that such firms or individuals have a legitimate interest in the program, have need-to-know status, and proper security clearance where required.

3.9.2.4 Technical Criteria

All designs, drawings, and specifications shall be prepared in accordance with the contract documents and with the applicable publications referenced therein. As soon as possible, the Design-Build Contractor shall obtain copies of all publications applicable to this contract. Availability of publications (where to purchase) is contained in Specification Section 01420 entitled: SOURCES FOR REFERENCE PUBLICATIONS. Any deviations from the technical criteria contained in the contract documents or in the applicable publications, including the use of criteria obtained from the user or other sources, must receive prior approval of the Contracting Officer. Where the technical criteria contained or referred to herein is not met, the Design-Build Contractor will be required to conform his design to the same at his own time and expense.

3.9.3 Design Priorities

The design of this project shall consider the remote location and harsh environment of this project and the impact this will have on sources of technical supply, the cost of construction, the low level of maintenance, and the difficulty of obtaining replacement parts. Unless stated otherwise in this contract, the following design priorities shall be followed:

3.9.3.1 CONSTRUCTION LIFE-SPAN LEVELS

[Permanent Construction. Buildings and facilities shall be designed and constructed to serve a life expectancy of more than 25 [____] years, to be energy efficient, and to have finishes, materials, and systems that are low maintenance and low life-cycle cost.]

[Semi permanent Construction. Buildings and facilities shall be designed and constructed to serve a life expectancy of more than 5 [____] years but less than 25 [____] years, to be energy efficient, and to have finishes, materials, and systems that require a moderate degree of maintenance using the life-cycle cost approach.]

[Temporary Construction. Buildings and facilities shall be designed and constructed to serve a life expectancy of 5 [____] years or less using low-cost construction, with finishes, materials, and systems that are selected with maintenance factors being a secondary consideration.]

[Mobilization, Emergency and Contingency Operations Construction. Buildings and facilities shall be designed and constructed to serve a specific mobilization or emergency requirement. Buildings will be austere to minimize construction time and maximize conservation of critical materials. Maintenance factors and longevity will be secondary considerations.]

3.9.3.2 Operability

Systems including but not necessarily limited to mechanical, electrical, communications, etc., must be simple to operate and easy to maintain.

3.9.3.3 Standardization

Use of standardized materials, products, equipment, and systems is necessary to minimize the requirements for replacement parts, storage facilities, and service requirements.

3.9.3.4 Overseas Work

Use of construction materials or techniques which are suitable for overseas work in harsh climates and environments.

3.9.3.5 [3.10.3.5 Economical Construction Details]

3.9.3.6 [3.10.3.6 Realistic Tolerances]

3.9.3.7 [3.10.3.7 Unrestrictive Specifications]

3.9.3.8 [3.10.3.8 Complete Design]

3.9.3.9 [3.10.3.9 Explosives Safety and Fire Protection Requirements]

3.9.4 Topographic Surveys, Easements, and Utilities

Unless otherwise stated in the contract, the Design-Build Contractor will be responsible for detailed topographic mapping, available easements, and

utility information for the project.

3.9.5 Geotechnical Investigation

Unless otherwise stated in the contract, the Design-Build Contractor will be responsible for Geotechnical investigation, including subsurface explorations, sampling, field and laboratory testing, and water studies where applicable.

3.9.6 Cathodic Protection and Earth Resistance

Unless otherwise stated in the contract, the Design-Build Contractor will be responsible for determining whether cathodic protection on buried structures and underground utility systems are needed for special electrical grounding and counterpoise systems, and for gathering the field data necessary for design.

3.9.7 Water Supply and Quality Data

Unless otherwise stated in the contract, the Design-Build Contractor will be responsible for obtaining all water supply and water quality data. This data will include information on the locations and depths of all viable water supply sources at the site(s) involved and a water quantity and water quality analysis for each source.

3.9.8 Occupational Safety and Health Act

The facilities, systems, and equipment designed under this contract shall comply with the Occupational Safety and Health Act (OSHA), Code of Federal Regulations, Title 29, Chapter XVII, Parts 1910 and 1926. Any problems in incorporating these standards due to conflicts with other technical criteria shall be submitted to the Contracting Officer for resolution.

3.9.9 Asbestos Containing Materials

Asbestos containing material (ACM) will not be used in the design of new structures or systems. In the event no other material is available which will perform the required function or where the use of other material would be cost prohibitive, a waiver for the use of asbestos containing materials must be obtained from CETAC.

3.9.9.1 Existing Construction

Asbestos containing materials (ACM) presently included in existing construction to be rehabilitated or otherwise modified as a result of this project, shall be removed and a non-asbestos containing material substituted in lieu thereof.

3.9.9.2 Suspected Asbestos Containing Materials

All such structures and systems shall be inspected to determine the presence or probable presence of ACM. When ACM is suspected, a documented survey will be performed. The survey will be developed into an abatement design and will be made a part of the design documents. In the event no other material is available which will perform the required function or the use of a substitute material would be cost prohibitive due to initial cost and tear-out of existing construction, a waiver for the retention of the asbestos containing material must be obtained from the Contracting Officer.

3.10 VALUE METHODOLOGY/VALUE ENGINEERING

The Design-Build Contractor during the course of his design shall be alert for and shall identify those high-cost low-value items or areas which he considers may be accomplished in different ways that will increase the value of the project at the same or less cost. Potential value engineering study items shall be reported to the Value Engineer through the Contracting Officer.

3.10.1 Performance Oriented Value Engineering Change Proposal (VECP)

In reference to Contract Clause 52.248-3, "Value Engineering - Construction", the Government may refuse to entertain a "Value Engineering Change Proposal" (VECP) for those "performance oriented" aspects of the Contract Documents which were addressed in the Design-Build Contractor's accepted contract proposal and which were evaluated in competition with other Proposers for award of this contract. For purposes of this clause, the term "performance oriented" refers to those aspects of the design criteria or other contract requirements which allow the Proposer or the Design-Build Contractor certain latitude, choice of and flexibility to propose in its accepted contract offer a choice of design, technical approach, design solution, construction approach or other approach to fulfill the contract requirements. Such requirements generally tend to be expressed in terms of functions to be performed, performance required or essential physical characteristics, without dictating a specific process or specific design solution for achieving the desired result.

3.10.2 Prescriptive Oriented Value Engineering Change Proposal (VECP)

The Government may consider a VECP for those "prescriptive" aspects of the Solicitation documents, not addressed in the Design-Build Contractor's accepted contract proposal or addressed but evaluated only for minimum conformance with the Solicitation requirements. For purposes of this clause, the term "prescriptive" refers to those aspects of the design criteria or other Solicitation requirements wherein the Government expressed the design solution or other requirements in terms of specific materials, approaches, systems and/or processes to be used. Prescriptive aspects typically allow the Proposers little or no freedom in the choice of design approach, materials, fabrication techniques, methods of installation or other approach to fulfill the contract requirements.

3.11 SUBMITTAL OF CONTRACTOR FURNISHED DESIGN DOCUMENTS

The requirements of this paragraph pertain to the submittal of design documents, specifications, design calculations, surveys, testing reports and other documents prepared by the Design-Build Contractor to meet the design requirements of this project.

3.11.1 Geo-technical

3.11.1.1 Design Analysis

The Design-Build Contractor shall submit in the design analysis catalog cuts, manufacturer's data for the following:

[_____]

3.11.1.2 Specifications

Specifications for all civil utilities shall include:

[_____]

3.11.1.3 Design Drawings

[Full Size] [Half-Size] Design drawings shall be submitted for the following:

[_____]

3.11.1.4 Manufacturer's recommendations, instructions, and certifications

Shall be submitted for the following:

[_____]

3.11.1.5 Samples

Samples shall be submitted for the following:

[_____]

3.11.1.6 Schedules

Schedules shall be submitted for the following:

[_____]

3.11.1.7 Reports

Reports shall be submitted for the following:

[_____]

3.11.1.8 Records

Records shall be submitted for the following:

[_____]

3.11.2 Civil, Site Planning and Layout

3.11.3 Water, Wastewater, and Solid Waste Systems

3.11.4 Architectural/Interior Design

3.11.5 Structural

3.11.6 Force Protection Design Procedures for the Protection of
United States Forces

3.11.7 Fire Protection and Life Safety

3.11.8 Heating, Ventilating, and Air Conditioning

3.11.9 Plumbing

- 3.11.10 Special Mechanical Systems and Equipment
- 3.11.11 Electrical
- 3.11.12 Power Generation
- 3.11.13 Power Transmission and Distribution
- 3.11.14 Communications
- 3.11.15 Corrosion Prevention and Control
- 3.11.16 Renovation Design
- 3.12.17 Accident Prevention and Safety
- 3.12 SUBMITTAL OF CONTRACTOR FURNISHED DESIGN DRAWINGS
 - 3.12.1 Geo-technical
 - 3.12.2 Civil, Site Planning and Layout
 - 3.12.3 Water, Wastewater, and Solid Waste Systems
 - 3.12.4 Architectural/Interior Design
 - 3.12.5 Structural
 - 3.12.6 Force Protection Design Procedures for the Protection of United States Forces
 - 3.12.7 Fire Protection and Life Safety
 - 3.12.8 Heating, Ventilating, and Air Conditioning
 - 3.12.9 Plumbing
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 - 3.12.15 Corrosion Prevention and Control
 - 3.12.16 Renovation Design
 - 3.13.17 Accident Prevention and Safety
- 3.13 GOVERNMENT APPROVED CONSTRUCTION SUBMITTALS (Required During Construction)
 - 3.13.1 General

Since this contract requires that the drawings and specifications specify

specific proprietary materials, equipment, systems, and patented processes by trade name, make, or catalog number, it is anticipated that construction shop drawings will primarily be limited to testing, construction plans (e.g., Contractor Quality Control, Accident Prevention, Resident Management System, Area Use etc), schedules (Project Schedule/Network Analysis), certificates of compliance, reports, records/statements and variations.

3.13.1.1 Variations

After design submittals have been reviewed and cleared for construction by the Contracting Officer, no submittal for the purpose of substituting materials, equipment, systems, and patented processes will be considered by the Government unless submitted in accordance with the paragraph entitled VARIATIONS.

3.13.1.2 Additional Shop Drawings and Submittals

In accordance with the paragraph entitled DESIGN DISCREPANCIES, the Government may request the Design-Build Contractor to provide additional shop drawing and submittal type data subsequent to completion of the design.

3.13.2 Incomplete Design

The Design-Build Contractor shall not use construction submittals as a means to supplant and/or supplement an incomplete design effort.

3.13.3 Government Approval of Construction Submittals

The approval of construction submittals by the Contracting Officer shall not be construed as a complete check, but will indicate only that the general method of design construction, materials, detailing and other information are satisfactory. Approval will not relieve the Design-Build Contractor of the responsibility for any error which may exist, as it is the sole responsibility of the Design-Build Contractor to certify that each submittal has been reviewed in detail and is in strict conformance with all the contract documents and design criteria referenced therein.

3.13.4 Submittals

Submittals (other than shop drawings) shall be limited to items such as Plans (e.g., Quality Control Plan, Accident Prevention Plan, Area Use Plan etc.), Certificates of Compliance, Installation Instructions, Manufacturer's Catalog Data, Descriptive Literature/Illustrations, Factory and Field Test Reports, Performance and Operational Test Data Reports, Records, Operation and Maintenance Manuals, and required variations.

3.13.5 Government Review

Upon completion of review of construction submittals requiring Government approval, the submittals will be identified as having received approval by being so stamped and dated. [_____] () copies of the submittal will be retained by the Contracting Officer and one (1) copy of the submittal will be returned to the Design-Build Contractor.

3.14 FOR INFORMATION ONLY SUBMITTALS

These submittals shall be checked, stamped, signed and dated by the Design-Build Contractor's Quality Control Engineer, certifying that such submittal complies with the contract requirements. All Contractor

submittals shall be subject to review by the Government at any time during the course of the contract. Any Contractor submittal found to contain errors or omissions shall be resubmitted as one requiring "approval". No adjustment for time or money will be allowed for corrections required as a result of noncompliance with plans or specifications. Normally submittals for information only will not be returned. Approval of the Contracting Officer is not required on information only submittals. These submittals will be used for information purposes. The Government reserves the right to require the Design-Build Contractor to resubmit any item found not to comply with the contract. This does not relieve the Design-Build Contractor from the obligation to furnish material conforming to the plans and specifications and will not prevent the Contracting Officer from requiring removal and replacement if nonconforming material is incorporated in the work.

3.15 ATTACHMENTS

The following attachments form an integral part of this specification:

ENG FORM 4025 - Transmittal of Shop Drawings, Equipment Data, Material Samples, or Manufacturer's Certificate of Compliance (2 pages)

ENG FORM 4288 - Submittal Register

Figure 1 - Index Sheet Logo/Signature Block (A-E)

Figure 2 - Continuation Sheet Logo/Signature Block (A-E)

Figure 3 - Title Block for Continuation Sheets

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SECTION 01 33 00

SUBMITTAL PROCEDURES

PART 1 GENERAL

1.1 DEFINITIONS

1.1.1 Submittal Descriptions (SD)

Submittals requirements are specified in the technical sections. Submittals are identified by Submittal Description (SD) numbers and titles as follows:

SD-01 Preconstruction Submittals

Submittals which are required prior to

Certificates of insurance

Surety bonds

List of proposed subcontractors

List of proposed products

Construction Progress Schedule

Network Analysis Schedule (NAS)

Submittal register

Schedule of prices

Health and safety plan

Work plan

Quality control (QC) plan

Environmental protection plan

SD-06 Test Reports

Report signed by authorized official of testing laboratory that a material, product or system identical to the material, product or system to be provided has been tested in accord with specified requirements. (Testing must have been within three years of date of contract award for the project.)

Report which includes findings of a test required to be performed by the Contractor on an actual portion of the work or prototype prepared for the project before shipment to job site.

Report which includes finding of a test made at the job site or on sample taken from the job site, on portion of work during or after installation.

Investigation reports.

Daily logs and checklists.

Final acceptance test and operational test procedure.

SD-07 Certificates

Statements printed on the manufacturer's letterhead and signed by responsible officials of manufacturer of product, system or material attesting that product, system or material meets specification requirements. Must be dated after award of project contract and clearly name the project.

Document required of Contractor, or of a manufacturer, supplier, installer or subcontractor through Contractor, the purpose of which is to further quality of orderly progression of a portion of the work by documenting procedures, acceptability of methods or personnel qualifications.

Confined space entry permits.

Text of posted operating instructions.

SD-11 Closeout Submittals

Documentation to record compliance with technical or administrative requirements or to establish an administrative mechanism.

Special requirements necessary to properly close out a construction contract. For example, Record Drawings and as-built drawings. Also, submittal requirements necessary to properly close out a major phase of construction on a multi-phase contract.

Interim "DD Form 1354" with cost breakout for all assets 30 days prior to facility turnover.

1.1.2 Approving Authority

Office or designated person authorized to approve submittal.

1.1.3 Work

As used in this section, on- and off-site construction required by contract documents, including labor necessary to produce submittals, construction, materials, products, equipment, and systems incorporated or to be incorporated in such construction.

1.2 SUBMITTALS

Government approval is required for submittals with a "G" designation; submittals not having a "G" designation are [for Contractor QC approval.][for information only. When used, a designation following the "G" designation identifies the office that will review the submittal for the Government.] Submit the following in accordance with this section.

SD-01 Preconstruction Submittals

Submittal Register[; G][; G, [____]]

1.3 SUBMITTAL CLASSIFICATION

Submittals are classified as follows:

1.4 PREPARATION

1.4.1 Transmittal Form

1.5 VARIATIONS / SUBSTITUTION REQUESTS

Variations from contract requirements require Government approval pursuant to contract Clause FAR 52.236-21 and will be considered where advantageous to Government.

1.5.1 Considering Variations

Discussion with Contracting Officer prior to submission, will help ensure functional and quality requirements are met and minimize rejections and re-submittals. When contemplating a variation which results in lower cost, consider submission of the variation as a Value Engineering Change Proposal (VECP).

Specifically point out variations from contract requirements in transmittal letters. Failure to point out deviations may result in the Government requiring rejection and removal of such work at no additional cost to the Government.

1.5.2 Proposing Variations

When proposing variation, deliver written request to the Contracting Officer, with documentation of the nature and features of the variation and why the variation is desirable and beneficial to Government. If lower cost is a benefit, also include an estimate of the cost savings. In addition to documentation required for variation, include the submittals required for the item. Clearly mark the proposed variation in all documentation.

1.5.3 Warranting That Variations Are Compatible

When delivering a variation for approval, Contractor warrants that this contract has been reviewed to establish that the variation, if incorporated, will be compatible with other elements of work.

1.5.4 Review Schedule Is Modified

In addition to normal submittal review period, a period of [10] [____] working days will be allowed for consideration by the Government of submittals with variations.

1.6 SUBMITTAL REGISTER

Prepare and maintain submittal register, as the work progresses. Do not change data which is output in columns (c), (d), (e), and (f) as delivered by Government; retain data which is output in columns (a), (g), (h), and (i) as approved. A submittal register showing items of equipment and materials for which submittals are required by the specifications is

provided as an attachment. This list may not be all inclusive and additional submittals may be required. [The Government will provide the initial submittal register] [in electronic format] [with the following fields completed, to the extent that will be required by the Government during subsequent usage.]

Column (c): Lists specification section in which submittal is required.

Column (d): Lists each submittal description (SD No. and type, e.g. SD-02 Shop Drawings) required in each specification section.

Column (e): Lists one principal paragraph in specification section where a material or product is specified. This listing is only to facilitate locating submitted requirements. Do not consider entries in column (e) as limiting project requirements.

[Thereafter, the Contractor is to track all submittals by maintaining a complete list, including completion of all data columns, including dates on which submittals are received and returned by the Government.]

1.6.1 Use of Submittal Register

Submit submittal register. Submit with QC plan and project schedule. Verify that all submittals required for project are listed and add missing submittals. Coordinate and complete the following fields on the register submitted with the QC plan and the project schedule:

[Column (a) Activity Number: Activity number from the project schedule.]

Column (g) Contractor Submit Date: Scheduled date for approving authority to receive submittals.

[Column (h) Contractor Approval Date: Date Contractor needs approval of submittal.]

[Column (i) Contractor Material: Date that Contractor needs material delivered to Contractor control.]

1.6.2 Contractor Use of Submittal Register

Update the following fields[in the Government-furnished submittal register program or equivalent fields in program utilized by Contractor] with each submittal throughout contract.

Column (b) Transmittal Number: Contractor assigned list of consecutive numbers.

Column (j) Action Code (k): Date of action used to record Contractor's review when forwarding submittals to QC.

Column (l) List date of submittal transmission.

Column (q) List date approval received.

1.6.3 Approving Authority Use of Submittal Register

Update the following fields[in the Government-furnished submittal register program or equivalent fields in program utilized by Contractor].

Column (b) Transmittal Number: Contractor assigned list of consecutive numbers.

Column (l) List date of submittal receipt.

Column (m) through (p) List Date related to review actions.

Column (q) List date returned to Contractor.

1.6.4 Contractor Action Code and Action Code

Entries for columns (j) and (o), are to be used are as follows (others may be prescribed by Transmittal Form):

NR - Not Received

AN - Approved as noted

A - Approved

RR - Disapproved, Revise, and Resubmit

1.6.5 Copies Delivered to the Government

Deliver one copy of submittal register updated by Contractor to Government with each invoice request.

1.7 SCHEDULING

Schedule and submit concurrently submittals covering component items forming a system or items that are interrelated. Include certifications to be submitted with the pertinent drawings at the same time. No delay damages or time extensions will be allowed for time lost in late submittals. An additional [_____] calendar days will be allowed and shown on the register for review and approval of submittals for [food service equipment] [and] [refrigeration and HVAC control systems].

- a. Coordinate scheduling, sequencing, preparing and processing of submittals with performance of work so that work will not be delayed by submittal processing. Allow for potential resubmittal of requirements.
- b. Submittals called for by the contract documents will be listed on the register. If a submittal is called for but does not pertain to the contract work, the Contractor is to include the submittal in the register and annotate it "N/A" with a brief explanation. Approval by the Contracting Officer does not relieve the Contractor of supplying submittals required by the contract documents but which have been omitted from the register or marked "N/A".
- c. Re-submit register and annotate monthly by the Contractor with actual submission and approval dates. When all items on the register have been fully approved, no further re-submittal is required.
- d. Carefully control procurement operations to ensure that each individual submittal is made on or before the Contractor scheduled submittal date shown on the approved "Submittal Register."

1.8 GOVERNMENT APPROVING AUTHORITY

When approving authority is Contracting Officer, the Government will:

- a. Note date on which submittal was received.
- b. Review submittals for approval within scheduling period specified and only for conformance with project design concepts and compliance with contract documents.
- c. Identify returned submittals with one of the actions defined in paragraph entitled "Review Notations" and with markings appropriate for action indicated.

Upon completion of review of submittals requiring Government approval, stamp and date approved submittals. [_____] copies of the approved submittal will be retained by the Contracting Officer and [_____] copies of the submittal will be returned to the Contractor.

1.9 DISAPPROVED[OR REJECTED] SUBMITTALS

Contractor shall make corrections required by the Contracting Officer. If the Contractor considers any correction or notation on the returned submittals to constitute a change to the contract drawings or specifications; notice as required under the clause entitled, "Changes" is to be given to the Contracting Officer. Contractor is responsible for the dimensions and design of connection details and construction of work. Failure to point out deviations may result in the Government requiring rejection and removal of such work at the Contractor's expense.

If changes are necessary to submittals, the Contractor shall make such revisions and submission of the submittals in accordance with the procedures above. No item of work requiring a submittal change is to be accomplished until the changed submittals are approved.

1.10 APPROVED[/ACCEPTED] SUBMITTALS

The Contracting Officer's approval or acceptance of submittals is not be construed as a complete check, and indicates only that. Approval or acceptance will not relieve the Contractor of the responsibility for any error which may exist, as the Contractor under the Contractor Quality Control (CQC) requirements of this contract is responsible for [dimensions, the design of adequate connections and details, and the satisfactory construction of all work] [design, dimensions, all design extensions, such as the design of adequate connections and details, etc., and the satisfactory construction of all work]. After submittals have been approved or accepted by the Contracting Officer, no resubmittal for the purpose of substituting materials or equipment will be considered unless accompanied by an explanation of why a substitution is necessary.

1.11 APPROVED SAMPLES

Approval of a sample is only for the characteristics or use named in such approval and is not be construed to change or modify any contract requirements. Before submitting samples, the Contractor to assure that the materials or equipment will be available in quantities required in the project. No change or substitution will be permitted after a sample has been approved.

Match the approved samples for Materials and equipment incorporated in the work. If requested, approved samples, including those which may be damaged in testing, will be returned to the Contractor, at his expense, upon completion of the contract. Samples not approved will also be returned to the Contractor at its expense, if so requested.

Failure of any materials to pass the specified tests will be sufficient cause for refusal to consider, under this contract, any further samples of the same brand or make of that material. Government reserves the right to disapproved any material or equipment which previously has proved unsatisfactory in service.

Samples of various materials or equipment delivered on the site or in place may be taken by the Contracting Officer for testing. Samples failing to meet contract requirements will automatically void previous approvals. Contractor to replace such materials or equipment to meet contract requirements.

Approval of the Contractor's samples by the Contracting Officer does not relieve the Contractor of his responsibilities under the contract.

PART 2 PRODUCTS

Not Used

PART 3 EXECUTION

Not Used

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SECTION 01 35 29

SAFETY AND OCCUPATIONAL HEALTH REQUIREMENTS

PART 1 GENERAL

1.1 REFERENCES

The publications listed below form a part of this specification to the extent referenced. The publications are referred to within the text by the basic designation only.

AMERICAN NATIONAL STANDARDS INSTITUTE (ANSI)

ANSI Z359.1 (1999) Safety Requirements for Personal Fall Arrest Systems, Subsystems and Components

U.S. NATIONAL ARCHIVES AND RECORDS ADMINISTRATION (NARA)

29 CFR 1910 Occupational Safety and Health Standards for General Industry

29 CFR 1926 Safety and Health Regulations for Construction

29 CFR 1926 Subpart J Welding & Cutting

U. S. ARMY CORPS OF ENGINEERS (USACE)

EM 385-1-1 (2008) Safety and Health Requirements Manual

NATIONAL FIRE PROTECTION ASSOCIATION (NFPA)

NFPA 51B (2003) Fire Prevention During Welding, Cutting, and Other Hot Work

NFPA 70 (2008) National Electrical Code

1.2 SUBMITTALS

The following shall be submitted in accordance with Section 01335 SUBMITTAL PROCEDURES FOR DESIGN BUILD PROJECT:

SD-01 Preconstruction Submittals

Accident Prevention Plan (APP)
Activity Hazard Analysis (AHA)
Crane Critical Lift Plan
Proof of Qualification for Crane Operators

SD-06 Test Reports

Accident Reports
Monthly Exposure Reports (including economic report)
Crane Reports

Submit reports as their incidence occurs, in accordance with the requirements of the paragraph entitled, "Reports."

SD-07 Certificates

Confined Space Entry Permit

1.3 DEFINITIONS

a. Competent Person for Fall Protection. A person who is capable of identifying hazardous or dangerous conditions in the personal fall arrest system or any component thereof, as well as their application and use with related equipment, and has the authority to take prompt corrective measures to eliminate the hazards of falling.

b. High Visibility Accident. Any mishap which may generate publicity and/or high visibility.

c. Low-slope roof. A roof having a slope less than or equal to 4 in 12 (vertical to horizontal).

d. Medical Treatment. Treatment administered by a physician or by registered professional personnel under the standing orders of a physician. Medical treatment does not include first aid treatment even through provided by a physician or registered personnel.

e. Multi-Employer Work Site (MEWS). A multi-employer work site, as defined by OSHA, is one in which many employers occupy the same site. The Government considers the Prime Contractor to be the "controlling authority" for all work site safety and health of the subcontractors.

f. Operating Envelope. The area surrounding any crane. Inside this "envelope" is the crane, the operator, riggers, rigging gear between the hook and the load, the load and the crane's supporting structure (ground, rail, etc.).

g. Qualified Person for Fall Protection. A person with a recognized degree or professional certificate, extensive knowledge, training and experience in the field of fall protection who is capable of performing design, analysis, and evaluation of fall protection systems and equipment.

h. Recordable Injuries or Illnesses. Any work-related injury or illness that results in:

- (1) Death, regardless of the time between the injury and death, or the length of the illness;
- (2) Days away from work;
- (3) Restricted work;
- (4) Transfer to another job;
- (5) Medical treatment beyond first aid;
- (6) Loss of consciousness; or
- (7) A significant injury or illness diagnosed by a physician or

other licensed health care professional, even if it did not result in (1) through (6) above.

i. Site Safety and Health Officer (SSHO). The superintendent or other qualified or competent person who is responsible for the on-site safety and health required for the project. The Contractor quality control (QC) person cannot be the SSHO, even though the QC has safety inspection responsibilities as part of the QC duties.

j. Steep roof. A roof having a slope greater than 4 in 12 (vertical to horizontal).

k. "USACE" property and equipment specified in USACE EM 385-1-1 should be interpreted as Government property and equipment.

1.4 REGULATORY REQUIREMENTS

In addition to the detailed requirements included in the provisions of this contract, work performed shall comply with [USACE EM 385-1-1](#) through the provisions of the Safety Phasing Plan (see appendix), and the applicable host nation laws, ordinances, criteria, rules and regulations. Matters of interpretation of standards shall be resolved in the preconstruction meeting during a safety partnering forum with affected contractor, subcontractor, and USACE personnel before starting work on the contract and each major phase of work. When strict compliance with the standards cannot be achieved, this meeting will develop procedures and guidelines for work to progress in a manner that provides a comparable degree of safety, as agreed by the partners. Where the requirements of this specification, applicable laws, criteria, ordinances, regulations, and referenced documents vary, the most stringent requirements shall apply.

1.5 DRUG PREVENTION PROGRAM

Conduct a proactive drug and alcohol use prevention program for all workers, prime and subcontractor, on the site. Ensure that no employee uses illegal drugs or consumes alcohol during work hours. Ensure there are no employees under the influence of drugs or alcohol during work hours.

1.6 SITE QUALIFICATIONS, DUTIES AND MEETINGS

1.6.1 Personnel Qualifications

1.6.1.1 Site Safety and Health Officer (SSHO)

The Contractor shall provide a Site Safety and Health Officer (SSHO) at each work site at all times work is being done to perform safety and occupational health management, surveillance, inspections, and safety enforcement for the Contractor. The SSHO may not be designated to perform other duties. The SSHO shall meet the following requirements:

An Associate Safety Professional (ASP), Certified Safety Trained Supervisor (STS) and/or Construction Health & Safety Technician (CHST). A minimum of 10 years safety work of a progressive nature with at least 5 years of experience on similar projects. 30-hour OSHA construction safety class or equivalent within the last 5 years. An average of at least 24 hours of formal safety training each year for the past 5 years with training for competent person status for at least the following five (5) areas of competency: Excavation; Scaffolding; Fall protection; Confined space; and Personal protective equipment and

clothing to include selection, use and maintenance.

The contractor shall require all subcontractors to provide an equally-qualified, designated SSHO (may be collateral duty) if they are involved in any of the high hazard activities listed in the appendix to this clause.

1.6.1.2 Safety Program Manager

Each major contractor shall also have, in-country and immediately accessible to the SSHOs, a Safety Program Manager (SPM) that meets the following requirements (SPM may also act as a SSHO):

A minimum of 5 years safety work on similar projects. 30-hour OSHA construction safety class or equivalent within the last 5 years. An average of at least 24 hours of formal safety training each year for the past 5 years. Competent person training as needed for the project operations.

1.6.1.3 Competent Person for Confined Space Entry

Provide a competent person meeting the requirements of EM 385-1-1 who is assigned in writing by the Designated Authority to assess confined spaces and who possesses demonstrated knowledge, skill and ability to:

- a. Identify the structure, location, and designation of confined and permit-required confined spaces where work is done;
- b. Calibrate and use testing equipment including but not limited to, oxygen indicators, combustible gas indicators, carbon monoxide indicators, and carbon dioxide indicators, and to interpret accurately the test results of that equipment;
- c. Perform all required tests and inspections specified in EM 385-1-1 Section 06.I
- d. Assess hazardous conditions including atmospheric hazards in confined space and adjacent spaces and specify the necessary protection and precautions to be taken;
- e. Determine ventilation requirements for confined space entries and operations;
- f. Assess hazards associated with hot work in confined and adjacent space and determine fire watch requirements; and,
- g. Maintain records required

1.6.1.4 Competent Person for the Health Hazard Control and Respiratory Protection Program

When operations will include potential exposure to hazardous atmospheres, provide a competent person meeting the requirements of EM 385-1-1 who is in-country and immediately accessible to the site safety and health officers and is:

- a. Capable by education, specialized training and/or experience of anticipating, recognizing, and evaluating employee exposure to hazardous chemical, physical and biological agents in accordance with USACE EM 385-1-1, Section 6.

- b. Capable of specifying necessary controls and protective actions to ensure worker health.

1.6.1.5 Crane Operators

Crane operators shall meet the requirements in USACE EM 385-1-1, Section 16 and Appendix G, as modified during the safety partnering forum.

1.6.2 Personnel Duties

1.6.2.1 Site Safety and Health Officer (SSHO)/ Superintendent

- a. Conduct daily safety and health inspections and maintain a written log which includes area/operation inspected, date of inspection, identified hazards, recommended corrective actions, estimated and actual dates of corrections. Safety inspection logs shall be attached to the Contractors' daily quality control report.
- b. Conduct mishap investigations and complete required reports. Maintain the Deficiency accident/ injury log for prime and sub-contractors.
- c. Maintain applicable safety reference material on the job site.
- d. Attend the pre-construction conference, pre-work meetings including safety partnering forum, preparatory inspection meeting, and periodic in-progress meetings.
- e. Implement and enforce accepted APPS and AHAs.
- f. Maintain a safety and health deficiency tracking system that monitors outstanding deficiencies until resolution. A list of unresolved safety and health deficiencies shall be posted on the safety bulletin board.
- g. Ensure sub-contractor compliance with safety and health requirements.

Failure to perform the above duties will result in dismissal of the superintendent and/or SSHO, and a project work stoppage. The project work stoppage will remain in effect pending approval of a suitable replacement.

1.6.2.2 Safety Program Manager

- a. Perform safety and occupational health management, surveillance, inspections, and safety enforcement for the program.
- b. Perform as the safety and occupational health "competent person" as defined by USACE EM 385-1-1.
- c. Be on-site at least monthly whenever work or testing is being performed.
- d. Conduct and document safety inspections.
- e. Shall have no other duties other than safety and occupational health management, inspections, and enforcement on this contract.

If the SPM is appointed as an SSHO all duties of that position shall also be performed.

1.6.3 Meetings

1.6.3.1 Preconstruction Conference

a. The Contractor will be informed, in writing, of the date of the preconstruction conference. The purpose of the preconstruction conference is for the Contractor and the Contracting Officer's representatives to become acquainted and explain the functions and operating procedures of their respective organizations and to reach mutual understanding relative to the administration of the overall project's [Accident Prevention Plan \(APP\)](#) before the initiation of work.

b. Contractor representatives who have a responsibility or significant role in accident prevention on the project shall attend the preconstruction conference. This includes the project superintendent, site safety and health officer, quality control supervisor, or any other assigned safety and health professionals who participated in the development of the APP (including the Activity Hazard Analyses (AHAs) and special plans, program and procedures associated with it).

c. The Contractor shall discuss the details of the submitted APP to include incorporated plans, programs, procedures and a listing of anticipated AHAs that will be developed and implemented during the performance of the contract. This list of proposed AHAs will be reviewed at the conference and an agreement will be reached between the Contractor and the Contracting Officer's representative as to which phases will require an analysis. In addition, a schedule for the preparation, submittal, review, and acceptance of AHAs shall be established to preclude project delays.

d. Deficiencies in the submitted APP will be brought to the attention of the Contractor at the preconstruction conference, and the Contractor shall revise the plan to correct deficiencies and re-submit it for acceptance. Work shall not begin until there is an accepted APP.

e. The functions of a Preconstruction conference may take place at the Post-Award Kickoff meeting for Design Build Contracts.

1.6.3.2 Weekly Safety Meetings

Safety Meetings shall be conducted and documented as required by [EM 385-1-1](#). Minutes showing contract title, signatures of attendees and a list of topics discussed shall be attached to the Contractors' daily quality control report.

1.6.3.3 Work Phase Meetings

The appropriate AHA shall be reviewed and attendance documented by the Contractor at the preparatory, initial, and follow-up phases of quality control inspection. The analysis should be used during daily inspections to ensure the implementation and effectiveness of safety and health controls.

1.7 TRAINING

1.7.1 New Employee Indoctrination

New employees (prime and sub-contractor) will be informed of specific site hazards before they begin work. Documentation of this orientation shall be kept on file at the project site.

1.7.2 Periodic Training

Provide Safety and Health Training in accordance with USACE EM 385-1-1 and the accepted APP meeting the guidelines of the applicable phase of the attached Safety Phasing plan. Ensure all required training has been accomplished for all onsite employees.

1.7.3 Training on Activity Hazard Analysis (AHA)

Prior to beginning a new phase, training will be provided to all affected employees to include a review of the AHA to be implemented.

1.8 ACCIDENT PREVENTION PLAN (APP)

The Contractor shall use a qualified person to prepare the written site-specific APP. Prepare the APP in accordance with the format and requirements of USACE EM 385-1-1 and as supplemented herein. Cover all paragraph and subparagraph elements in USACE EM 385-1-1, Appendix A, "Minimum Basic Outline for Accident Prevention Plan". Specific requirements for some of the APP elements are described below. The APP shall be job-specific and shall address any unusual or unique aspects of the project or activity for which it is written. The APP shall interface with the Contractor's overall safety and health program. Any portions of the Contractor's overall safety and health program referenced in the APP shall be included in the applicable APP element and made site-specific. The Government considers the Prime Contractor to be the "controlling authority" for all work site safety and health of the subcontractors. Contractors are responsible for informing their subcontractors of the safety provisions under the terms of the contract and the penalties for noncompliance, coordinating the work to prevent one craft from interfering with or creating hazardous working conditions for other crafts, and inspecting subcontractor operations to ensure that accident prevention responsibilities are being carried out. The APP shall be signed by the person and firm (senior person) preparing the APP, the Contractor, the on-site superintendent, the designated site safety and health officer and any designated CSP and/or CIH.

Submit the APP to the Contracting Officer 30 calendar days prior to the date of the preconstruction conference for acceptance. Work cannot proceed without an accepted plan.

Once accepted by the Contracting Officer, the APP and attachments will be enforced as part of the contract. Disregarding the provisions of this contract or the accepted APP will be cause for stopping of work, at the discretion of the Contracting Officer, until the matter has been rectified.

Once work begins, changes to the accepted APP shall be made with the knowledge and concurrence of the Contracting Officer, project superintendent, SSHO and quality control manager. Should any hazard become evident, stop work in the area, secure the area, and develop a plan to remove the hazard. Notify the Contracting Officer within 24 hours of

discovery. Eliminate/remove the hazard. In the interim, all necessary action shall be taken to restore and maintain safe working conditions in order to safeguard onsite personnel, visitors, the public (as defined by ANSI/ASSE A10.34) and the environment.

Copies of the accepted plan will be maintained at the Contracting Officer's office, Resident engineer's office and at the job site. The APP shall be continuously reviewed and amended, as necessary, throughout the life of the contract. Unusual or high-hazard activities not identified in the original APP shall be incorporated in the plan as they are discovered.

1.8.1 EM 385-1-1 Contents

In addition to the requirements outlines in Appendix A of USACE EM 385-1-1, the following is required:

a. Names and qualifications (resumes including education, training, experience and certifications) of all site safety and health personnel designated to perform work on this project to include the designated site safety and health officer and other competent and qualified personnel to be used such as the SPM. The duties of each position shall be specified.

b. Qualifications of competent and of qualified persons. As a minimum, competent persons shall be designated and qualifications submitted for each of the following major areas: excavation; scaffolding; fall protection; hazardous energy; confined space; health hazard recognition, evaluation and control of chemical, physical and biological agents; personal protective equipment and clothing to include selection, use and maintenance.

c. Confined Space Entry Plan. Develop a confined space entry plan in accordance with USACE EM 385-1-1, and the procedures outlined in OSHA standard 29 CFR 1910. Identify the qualified person's name and qualifications, training, and experience. Delineate the qualified person's authority to direct work stoppage in the event of hazardous conditions. Include procedure for rescue by contractor personnel and the coordination with emergency responders. (If there is no confined space work, include a statement that no confined space work exists and none will be created.)

d. Health Hazard Control Program. The Contractor shall designate a competent and qualified person to establish and oversee a Health Hazard Control Program in accordance with USACE EM 385-1-1, Section 6. The program shall ensure that employees, on-site Government representatives, and others, are not adversely exposed to chemical, physical and biological agents and that necessary controls and protective actions are instituted to ensure health.

e. Alcohol and Drug Abuse Plan

(1) Description of the on-site prevention program

f. Fall Protection and Prevention (FP&P) Plan. The plan shall be site specific and address all fall hazards in the work place and during different phases of construction. It shall address how to protect and prevent workers from falling to lower levels when they are exposed to fall hazards above 1.8 m (6 feet). A qualified person for fall protection shall prepare and sign the plan. The plan shall include

fall protection and prevention systems, equipment and methods employed for every phase of work, responsibilities, assisted rescue, self-rescue and evacuation procedures, training requirements, and monitoring methods. Fall Protection and Prevention Plan shall be revised at each Safety Phase for lengthy projects, reflecting any changes during the course of construction due to changes in personnel, equipment, systems or work habits. The accepted Fall Protection and Prevention Plan shall be kept and maintained at the job site for the duration of the project. The Fall Protection and Prevention Plan shall be included in the Accident Prevention Plan (APP).

g. Training Records and Requirements. List of mandatory training and certifications which are applicable to this project; list of requirements for periodic retraining/certification; outline requirements for supervisory and employee safety meetings.

h. Occupant Protection Plan (as applicable). The safety and health aspects of lead-based paint removal.

i. Lead Compliance Plan (as applicable). The safety and health aspects of lead work.

j. Asbestos Hazard Abatement Plan (as applicable). The safety and health aspects of asbestos work.

l. Site Safety and Health Plan (as applicable).

m. PCB Plan (as applicable). The safety and health aspects of Polychlorinated Biphenyls work.

n. Site Demolition Plan (as applicable).

o. Excavation Plan (as applicable).

p. **Crane Critical Lift Plan**. Prepare and sign weight handling critical lift plans for lifts over 75 percent of the capacity of the crane or hoist (or lifts over 50 percent of the capacity of a barge mounted mobile crane's hoists) at any radius of lift; lifts involving more than one crane or hoist; lifts of personnel; and lifts involving non-routine rigging or operation, sensitive equipment, or unusual safety risks. The plan shall be submitted 15 calendar days prior to on-site work and include the requirements of USACE EM 385-1-1, paragraph 16.C.18. and the following:

(1) For lifts of personnel, the plan shall demonstrate compliance with the requirements of 29 CFR 1926.

(2) For barge mounted mobile cranes, barge stability calculations identifying barge list and trim based on anticipated loading; and load charts based on calculated list and trim. The amount of list and trim shall be within the crane manufacturer's requirements.

1.9 ACTIVITY HAZARD ANALYSIS (AHA)

The Activity Hazard Analysis (AHA) shall be in accordance with USACE EM 385-1-1. Submit the AHA for review at least 15 calendar days prior to the start of each work phase. Format subsequent AHA as amendments to the APP. An AHA will be developed by the Contractor for every operation

involving a type of work presenting hazards not experienced in previous project operations or where a new work crew or subcontractor is to perform work. The analysis must identify and evaluate hazards and outline the proposed methods and techniques for the safe completion of each phase of work. At a minimum, define activity being performed, sequence of work, specific safety and health hazards anticipated, control measures (to include personal protective equipment) to eliminate or reduce each hazard to acceptable levels, equipment to be used, inspection requirements, training requirements for all involved, and the competent person in charge of that phase of work. For work with fall hazards, including fall hazards associated with scaffold erection and removal, identify the appropriate fall protection methods used. For work with materials handling equipment, address safeguarding measures related to materials handling equipment. For work requiring excavations, include requirements for safeguarding excavations. An activity requiring an AHA shall not proceed until the AHA has been accepted by the Contracting Officer's representative and a meeting has been conducted by the Contractor to discuss its contents with everyone engaged in the activity, including on-site Government representatives. The Contractor shall document meeting attendance at the preparatory, initial, and follow-up phases of quality control inspection. The AHA shall be continuously reviewed and, when appropriate, modified to address changing site conditions or operations. The analysis should be used during daily inspections to ensure the implementation and effectiveness of the activity's safety and health controls.

The AHA list will be reviewed periodically (at least monthly) at the Contractor supervisory safety meeting and updated as necessary when procedures, scheduling, or hazards change.

Activity hazard analyses shall be updated as necessary to provide an effective response to changing work conditions and activities. The on-site superintendent, site safety and health officer and competent persons used to develop the AHAs, including updates, shall sign and date the AHAs before they are implemented.

1.10 DISPLAY OF SAFETY INFORMATION

Within 5 calendar days after commencement of work, erect a safety bulletin board at the job site. The following information shall be displayed on the safety bulletin board in clear view of the on-site construction personnel, maintained current, and protected against the elements and unauthorized removal:

- a. Map denoting the route to the nearest emergency care facility.
- b. Emergency communication procedures.
- c. Copy of the most up-to-date APP.
- d. Current AHA(s).
- e. A sign indicating the number of hours worked since last lost workday accident.
- f. Safety and Health Warning Posters.

1.11 SITE SAFETY REFERENCE MATERIALS

Maintain safety-related references applicable to the project. Maintain

applicable equipment manufacturer's manuals or if not available, general safety procedures for the type of equipment.

1.12 EMERGENCY MEDICAL TREATMENT

Contractors will arrange for their own emergency medical treatment. Government will assist as possible to arrange emergency medical treatment.

1.13 REPORTS

1.13.1 Accident Reports

For recordable injuries and illnesses, and property damage accidents resulting in at least \$2,000 in damages, the Prime Contractor shall conduct an accident investigation to establish the root cause(s) of the accident, complete the USACE Accident Report Form 3394 and provide the report to the Contracting Officer within 5 calendar days of the accident. The Contracting Officer will provide copies of any required or special forms.

1.13.2 Accident Notification

Notify the Contracting Officer as soon as practical, but not later than eight hours, after any accident meeting the definition of Recordable Injuries or Illnesses or High Visibility Accidents, property damage equal to or greater than \$2,000, or any weight handling equipment accident. Information shall include contractor name; contract title; type of contract; name of activity, installation or location where accident occurred; date and time of accident; names of personnel injured; extent of property damage, if any; extent of injury, if known, and brief description of accident (to include type of construction equipment used, PPE used, etc.). Preserve the conditions and evidence on the accident site until the Government investigation team arrives on-site and Government investigation is conducted.

1.13.3 Monthly Exposure Reports

Monthly exposure reporting to the Contracting Officer is required to be attached to the monthly billing request. This report is a compilation of employee-hours worked each month for all site workers, both prime and subcontractor. The Contracting Officer will provide copies of any special forms.

1.13.4 Crane Reports

Submit crane inspection reports required in accordance with USACE EM 385-1-1, Appendix H and as specified herein with Daily Reports of Inspections.

The Contractor shall provide a Certificate of Compliance for each crane entering an activity under this contract. Certificate shall state that the crane and rigging gear meet applicable OSHA regulations (with the Contractor citing which OSHA regulations are applicable, e.g., cranes used in construction, demolition, or maintenance shall comply with 29 CFR 1926 and USACE EM 385-1-1 section 16 and Appendix H. Certify on the Certificate of Compliance that the crane operator(s) is qualified and trained in the operation of the crane to be used. The Contractor shall also certify that all of its crane operators have been trained in the proper use of all safety devices (e.g., anti-two block devices). These certifications shall

be posted on the crane.

1.13.5 Hot Work

Prior to performing "Hot Work" (welding, cutting, etc.) or operating other flame-producing/spark producing devices, a written permit shall be requested from the designated SSHO. CONTRACTORS ARE REQUIRED TO MEET ALL CRITERIA BEFORE A PERMIT IS ISSUED. The Contractor will provide at least two (2) twenty (20) pound 4A:20 BC rated extinguishers for normal "Hot Work". All extinguishers shall be current inspection tagged, approved safety pin and tamper resistant seal. It is also mandatory to have a designated FIRE WATCH for any "Hot Work" done at this activity. The Fire Watch shall be trained in accordance with NFPA 51B and remain on-site for a minimum of 30 minutes after completion of the task or as specified on the hot work permit.

When starting work, Contractors shall require their personnel to familiarize themselves with the location of the nearest fire alarm boxes. ANY FIRE, NO MATTER HOW SMALL, SHALL BE REPORTED TO THE SSHO IMMEDIATELY.

PART 2 PRODUCTS

2.1 CONFINED SPACE SIGNAGE

The Contractor shall provide permanent signs integral to or securely attached to access covers for new permit-required confined spaces. Signs wording: "DANGER--PERMIT-REQUIRED CONFINED SPACE - DO NOT ENTER -" in bold letters a minimum of 25 mm (one inch) in height and constructed to be clearly legible with all paint removed. The signal word "DANGER" shall be red and readable from 1.52 m (5 feet). Signage shall in English and in the language(s) of the work force.

2.2 FALL PROTECTION ANCHORAGE

Fall protection anchorage, conforming to ANSI Z359.1, installed under the supervision of a qualified person in fall protection, shall be left in place for continued customer use and so identified by signage stating the capacity of the anchorage (strength and number of persons who may be tied-off to it at any one time).

PART 3 EXECUTION

3.1 CONSTRUCTION AND/OR OTHER WORK

The Contractor shall comply with USACE EM 385-1-1, as allowed under the Safety Phasing Plan.

3.1.1 Hazardous Material Use

Any work or storage involving hazardous chemicals or materials must be done in a manner that will not expose Government or Contractor employees to any unsafe or unhealthful conditions. Adequate protective measures must be taken to prevent Government or Contractor employees from being exposed to any hazardous condition that could result from the work or storage. The Prime Contractor shall keep a complete inventory of hazardous materials brought onto the work-site.

3.1.2 Hazardous Material Exclusions

Notwithstanding any other hazardous material used in this contract, radioactive materials or instruments capable of producing ionizing/non-ionizing radiation (with the exception of radioactive material and devices used in accordance with USACE EM 385-1-1 such as nuclear density meters for compaction testing and laboratory equipment with radioactive sources) are prohibited. Materials which contain asbestos, mercury or polychlorinated biphenyls, di-isocyanates, lead-based paint are prohibited unless a comparable substitute is not available. The Contractor must submit written requests for exception to the Contracting Officer and receive acceptance before use of these materials or products containing them.

3.1.3 Unforeseen Hazardous Material

The design should have identified materials such as PCB, lead paint, and friable and non-friable asbestos. If material, not indicated, that may be hazardous to human health upon disturbance during construction operations is encountered, stop that portion of work and notify the Contracting Officer immediately. Within 14 calendar days the Government will determine if the material is hazardous. If material is not hazardous or poses no danger, the Government will direct the Contractor to proceed without change. If material is hazardous and handling of the material is necessary to accomplish the work, the Government will issue a modification pursuant to "FAR 52.243-4, Changes" and "FAR 52.236-2, Differing Site Conditions."

3.2 PRE-OUTAGE COORDINATION MEETING

Contractors are required to apply for utility outages at least 15 days in advance. As a minimum, the request should include the location of the outage, utilities being affected, duration of outage and any necessary sketches. Special requirements for electrical outage requests are contained elsewhere in this specification section. Once approved, and prior to beginning work on the utility system requiring shut down, the Contractor shall attend a pre-outage coordination meeting with the Contracting Officer to review the scope of work and the lock-out/tag-out procedures for worker protection. No work will be performed on energized electrical circuits unless proof is provided that no other means exist.

3.3 FALL HAZARD PROTECTION AND PREVENTION PROGRAM

The Contractor shall establish a fall protection and prevention program, for the protection of all employees exposed to fall hazards. The program shall include company policy, identify responsibilities, education and training requirements, fall hazard identification, prevention and control measures, inspection, storage, care and maintenance of fall protection equipment and rescue and escape procedures.

3.3.1 Training

The Contractor shall institute a fall protection training program. As part of the Fall Hazard Protection and Prevention Program, the Contractor shall provide training for each employee who might be exposed to fall hazards. A competent person for fall protection shall provide the training. Training requirements shall be in accordance with USACE EM 385-1-1, section 21.A.16 and/or the applicable Safety Phase Plan section.

3.3.2 Fall Protection Equipment

The Contractor shall enforce use of the fall protection equipment designated for each specific work activity in the Fall Protection and Prevention Plan and/or AHA at all times when an employee is on a surface 1.8 m (6 feet) or more above lower levels. Fall protection systems such as guardrails, personnel fall arrest system, safety nets, etc., are required when working within 1.8m (6 feet) of any leading edge. In addition to the required fall protection systems, safety skiff, personal floatation devices, life rings etc., are required when working above or next to water in accordance with USACE EM 385-1-1, paragraphs 05.I. and 05.J. Personal fall arrest systems are required when working from an articulating or extendible boom, swing stages, or suspended platform. In addition, personal fall arrest systems are required when operating other equipment such as scissor lifts if the work platform is capable of being positioned outside the wheelbase. The need for tying-off in such equipment is to prevent ejection of the employee from the equipment during raising, lowering, or travel. Fall protection must comply with USACE EM 385-1-1.

3.3.2.1 Personal Fall Arrest Equipment

Personal fall arrest equipment, systems, subsystems, and components shall meet the performance criteria of ANSI Z359.1. The maximum free fall distance when using fall arrest equipment shall not exceed 1.8 m (6 feet). The total fall distance and any swinging of the worker (pendulum-like motion) that can occur during a fall shall always be taken into consideration when attaching a person to a fall arrest system.

3.3.3 Fall Protection for Roofing Work

Fall protection controls shall be implemented based on the type of roof being constructed and work being performed. The roof area to be accessed shall be evaluated for its structural integrity including weight-bearing capabilities for the projected loading.

3.3.4 Existing Anchorage

Existing anchorages, to be used for attachment of personal fall arrest equipment, shall be selected by a qualified person for fall protection in accordance with ANSI Z359.1. Existing horizontal lifeline anchorages shall be certified (or re-certified) by a professional engineer with experience in designing horizontal lifeline systems.

3.3.5 Horizontal Lifelines

Horizontal lifelines shall be designed, installed, certified and used under the supervision of a qualified person for fall protection as part of a complete fall arrest system which maintains a safety factor of 2 (29 CFR 1926).

3.3.6 Guardrails and Safety Nets

Guardrails and safety nets shall be designed, installed and used in accordance with EM 385-1-1 and 29 CFR 1926 Subpart M.

3.3.7 Rescue and Evacuation Procedures

When personal fall arrest systems are used, the contractor must ensure that the mishap victim can self-rescue or can be rescued promptly should a fall

occur. A Rescue and Evacuation Plan shall be prepared by the contractor and include a detailed discussion of the following: methods of rescue; methods of self-rescue; equipment used; training requirement; specialized training for the rescuers; procedures for requesting rescue and medical assistance; and transportation routes to a medical facility. The Rescue and Evacuation Plan shall be included in the Activity Hazard Analysis (AHA) for the phase of work, in the Fall Protection and Prevention (FP&P) Plan, and the Accident Prevention Plan (APP).

3.4 SCAFFOLDING

Employees shall be provided with a safe means of access to the work area on the scaffold. Stationary scaffolds must be attached to structural building components to safeguard against tipping forward or backward. Special care shall be given to ensure scaffold systems are not overloaded. Side brackets used to extend scaffold platforms on self-supported scaffold systems for the storage of material is prohibited. The first tie-in shall be at the height equal to 4 times the width of the smallest dimension of the scaffold base. Work platforms shall be placed on mud sills. Scaffold or work platform erectors shall have fall protection during the erection and dismantling of scaffolding or work platforms that are more than six feet. Delineate fall protection requirements when working above six feet or above dangerous operations in the Fall Protection and Prevention (FP&P) Plan and Activity Hazard Analysis (AHA) for the phase of work.

3.5 EXCAVATIONS

The competent person for excavations performed as a result of contract work shall be on-site when excavation work is being performed, and shall inspect, and document the excavations daily prior to entry by workers. The competent person must evaluate all hazards, including atmospheric, that may be associated with the work, and shall have the resources necessary to correct hazards promptly. The competent person shall perform soil classification.

3.5.1 Utility Locations

All underground utilities in the work area must be positively identified by a private utility locating service in addition to any station locating service and coordinated with the station utility department. Any markings made during the utility investigation must be maintained throughout the contract.

3.5.2 Utility Location Verification

The Contractor must physically verify underground utility locations by hand digging using wood or fiberglass handled tools when any adjacent construction work is expected to come within three feet of the underground system. Digging within 0.061 m (2 feet) of a known utility must not be performed by means of mechanical equipment; hand digging shall be used. If construction is parallel to an existing utility the utility shall be exposed by hand digging every 30.5 m (100 feet) if parallel within 1.5 m (5 feet) of the excavation.

3.5.3 Shoring Systems

Trench and shoring systems must be identified in the accepted safety plan and AHA. Manufacture tabulated data and specifications or registered engineer tabulated data for shoring or benching systems shall be readily

available on-site for review. Job-made shoring or shielding shall have the registered professional engineer stamp, specifications, and tabulated data. Extreme care must be used when excavating near direct burial electric underground cables.

3.5.4 Trenching Machinery

Trenching machines with digging chain drives shall be operated only when the spotters/laborers are in plain view of the operator. Operator and spotters/laborers shall be provided training on the hazards of the digging chain drives with emphasis on the distance that needs to be maintained when the digging chain is operating. Documentation of the training shall be kept on file at the project site.

3.6 ELECTRICAL

3.6.1 Conduct of Electrical Work

Underground electrical spaces must be certified safe for entry before entering to conduct work. Cables that will be cut must be positively identified and de-energized prior to performing each cut. Positive cable identification must be made prior to submitting any outage request for electrical systems. Arrangements are to be coordinated with the Contracting Officer and Station Utilities for identification. The Contracting Officer will not accept an outage request until the Contractor satisfactorily documents that the circuits have been clearly identified. Perform all high voltage cable cutting remotely using hydraulic cutting tool. When racking in or live switching of circuit breakers, no additional person other than the switch operator will be allowed in the space during the actual operation. Plan so that work near energized parts is minimized to the fullest extent possible. Use of electrical outages clear of any energized electrical sources is the preferred method. When working in energized substations, only qualified electrical workers shall be permitted to enter. When work requires Contractor to work near energized circuits as defined by the NFPA 70, high voltage personnel must use personal protective equipment that includes, as a minimum, electrical hard hat, safety shoes, insulating gloves with leather protective sleeves, fire retarding shirts, coveralls, face shields, and safety glasses. In addition, provide electrical arc flash protection for personnel as required. Insulating blankets, hearing protection, and switching suits may also be required, depending on the specific job and as delineated in the Contractor's AHA.

3.6.2 Portable Extension Cords

Portable extension cords shall be sized in accordance with manufacturer ratings for the tool to be powered and protected from damage. All damaged extension cords shall be immediately removed from service.

3.7 WORK IN CONFINED SPACES

The Contractor shall comply with the requirements in Section 06.I of USACE EM 385-1-1. Any potential for a hazard in the confined space requires a permit system to be used.

- a. Entry Procedures. Prohibit entry into a confined space by personnel for any purpose, including hot work, until the qualified person has conducted appropriate tests to ensure the confined or enclosed space is safe for the work intended and that all potential hazards are controlled or eliminated and documented. (See Section

06.I.05 of USACE EM 385-1-1 and the appropriate Safety Phase Plan for entry procedures.) All hazards pertaining to the space shall be reviewed with each employee during review of the AHA.

b. Forced air ventilation is required for all Permit-required confined space entry operations and the minimum air exchange requirements must be maintained to ensure exposure to any hazardous atmosphere is kept below its' action level.

c. Ensure the use of rescue and retrieval devices in confined spaces greater than 1.5 m (5 feet) in depth. Conform to Sections 06.I.09, 06.I.10 and 06.I.11 of USACE EM 385-1-1.

d. Sewer wet wells require continuous atmosphere monitoring with audible alarm for toxic gas detection.

e. Include training information for employees who will be involved as entrants and attendants for the work. Conform to Section 06.I.06 of USACE EM 385-1-1.

f. Daily Entry Permit/ marking system. Post the permit in a conspicuous place close to the confined space entrance.

3.8 CRYSTALLINE SILICA

Grinding, abrasive blasting, and foundry operations of construction materials containing crystalline silica, shall comply with USACE EM 385-1-1, Appendix C. The Contractor shall develop and implement effective exposure control and elimination procedures to include dust control systems, engineering controls, and establishment of work area boundaries, as well as medical surveillance, training, air monitoring, and personal protective equipment.

3.9 HOUSEKEEPING

3.9.1 Clean-Up

All debris in work areas shall be cleaned up daily or more frequently if necessary. Construction debris may be temporarily located in an approved location, however garbage accumulation must be removed each day.

3.9.2 Falling Object Protection

All areas must be barricaded to safeguard employees. When working overhead, Barricade the area below to prevent entry by unauthorized employees. Construction warning tape and signs shall be posted so they are clearly visible from all possible access points. When employees are working overhead all tools and equipment shall be secured so that they will not fall. When using guardrail as falling object protection, all openings shall be small enough to prevent passage of potential falling objects.

-- End of Section --

-- End of Section --

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SECTION 01 42 00

SOURCES FOR REFERENCE PUBLICATIONS

PART 1 GENERAL

1.1 REFERENCES

Various publications are referenced in other sections of the specifications to establish requirements for the work. These references are identified in each section by document number, date and title. The document number used in the citation is the number assigned by the standards producing organization, (e.g. ASTM B 564 Nickel Alloy Forgings). However, when the standards producing organization has not assigned a number to a document, an identifying number has been assigned for reference purposes.

1.2 ORDERING INFORMATION

The addresses of the standards publishing organizations whose documents are referenced in other sections of these specifications are listed below, and if the source of the publications is different from the address of the sponsoring organization, that information is also provided. Documents listed in the specifications with numbers which were not assigned by the standards producing organization should be ordered from the source by title rather than by number.

AMERICAN NATIONAL STANDARDS INSTITUTE (ANSI)
1819 L Street, NW, 6th Floor
Washington, DC 20036
Ph: 202-293-8020
Fax: 202-293-9287
E-mail: info@ansi.org
Internet: <http://www.ansi.org/>

ASTM INTERNATIONAL (ASTM)
100 Barr Harbor Drive, P.O. Box C700
West Conshohocken, PA 19428-2959
Ph: 610-832-9500
Fax: 610-832-9555
E-mail: service@astm.org
Internet: <http://www.astm.org>

NATIONAL FIRE PROTECTION ASSOCIATION (NFPA)
1 Batterymarch Park
Quincy, MA 02169-7471
Ph: 617-770-3000
Fax: 617-770-0700
E-mail: webmaster@nfpa.org
Internet: <http://www.nfpa.org>

U.S. ARMY CORPS OF ENGINEERS (USACE)
Order CRD-C DOCUMENTS from:
U.S. Army Engineer Waterways Experiment Station
ATTN: Technical Report Distribution Section, Services
Branch, TIC

3909 Halls Ferry Road
Vicksburg, MS 39180-6199
Ph: 601-634-2664
Fax: 601-634-2388
E-mail: mtc-info@erdc.usace.army.mil
Internet: <http://www.wes.army.mil/SL/MTC/handbook.htm>

Order Other Documents from:
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Ph: 301-394-0081
Fax: 301-394-0084
E-mail: pubs-army@usace.army.mil
Internet: <http://www.usace.army.mil/publications>
or <http://www.hnd.usace.army.mil/techinfo/engpubs.htm>

U.S. NATIONAL ARCHIVES AND RECORDS ADMINISTRATION (NARA)
8601 Adelphi Road
College Park, MD 20740-6001
Ph: 866-272-6272
Fax: 301-837-0483
Internet: <http://www.archives.gov>

Order documents from:
Superintendent of Documents
U.S. Government Printing Office (GPO)
732 North Capitol Street, NW
Washington, DC 20401
Ph: 202-512-1800
Fax: 202-512-2104
E-mail: contactcenter@gpo.gov
Internet: <http://www.gpoaccess.gov>

PART 2 PRODUCTS

Not Used

PART 3 EXECUTION

Not used

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SECTION 01 45 02.00 10

QUALITY CONTROL SYSTEM (QCS)

PART 1 GENERAL

1.1 Contract Administration

The Government will use the Resident Management System for Windows (RMS) to assist in its monitoring and administration of this contract. The Contractor shall use the Government-furnished Construction Contractor Module of RMS, referred to as QCS, to record, maintain, and submit various information throughout the contract period. The Contractor module, user manuals, updates, and training information can be downloaded from the [RMS](#) web site. This joint Government-Contractor use of RMS and QCS will facilitate electronic exchange of information and overall management of the contract. QCS provides the means for the Contractor to input, track, and electronically share information with the Government in the following areas:

- Administration
- Finances
- Quality Control
- Submittal Monitoring
- Scheduling
- Import/Export of Data

1.1.1 Correspondence and Electronic Communications

For ease and speed of communications, both Government and Contractor will, to the maximum extent feasible, exchange correspondence and other documents in electronic format. Correspondence, pay requests and other documents comprising the official contract record shall also be provided in paper format, with signatures and dates where necessary. Paper documents will govern, in the event of discrepancy with the electronic version.

1.1.2 Other Factors

Particular attention is directed to Contract Clause 52.236-15 "Schedules for Construction Contracts", Contract Clause 52.232-5 "Payments", Section 01 32 17.00 20 NETWORK ANALYSIS SCHEDULES (NAS), Section 01 33 00 SUBMITTAL PROCEDURES, and Section 01 45 04.00 10, CONTRACTOR QUALITY CONTROL, which have a direct relationship to the reporting to be accomplished through QCS. Also, there is no separate payment for establishing and maintaining the QCS database; all costs associated therewith shall be included in the contract pricing for the work.

1.2 QCS SOFTWARE

QCS is a Windows-based program that can be run on a stand-alone personal computer or on a network. The Government will make available the QCS software to the Contractor after award of the construction contract. Prior to the Pre-Construction Conference, the Contractor shall be responsible to download, install and use the latest version of the QCS software from the Government's RMS Internet Website located at <http://www.rmssupport.com/qcs/default.aspx>. Upon specific justification

and request by the Contractor, the Government can provide QCS on CD-ROM. Any program updates of QCS will be made available to the Contractor via the Government RMS Website as they become available.

1.3 RELATED INFORMATION

1.3.1 QCS User Guide

After contract award, the Contractor shall download instructions for the installation and use of QCS from the Government RMS Internet Website. In case of justifiable difficulties, the Government will provide the Contractor with a CD-ROM containing these instructions.

1.3.2 Contractor Quality Control (CQC) Training

The use of QCS will be discussed with the Contractor's QC System Manager during the mandatory CQC Training class.

1.4 CONTRACT DATABASE

Prior to the pre-construction conference, the Government will provide the Contractor with basic contract award data to use for QCS. The Government will provide data updates to the Contractor as needed, generally by using the Government's SFTP repository built into QCS import/export function. These updates will generally consist of submittal reviews, correspondence status, QA comments, and other administrative and QA data.

1.5 DATABASE MAINTENANCE

The Contractor shall establish, maintain, and update data for the contract in the QCS database throughout the duration of the contract. The Contractor shall establish and maintain the QCS database at the Contractor's site office. Submit data updates to the Government (e.g., daily reports, submittals, RFI's, schedule updates, payment requests, etc.) using the Government's SFTP repository built into QCS export function. If permitted by the Contracting Officer, e-mail or CD-ROM may be used instead of E-mail (see Paragraph DATA SUBMISSION VIA CD-ROM). The QCS database typically shall include current data on the following items:

1.5.1 Administration

1.5.1.1 Contractor Information

The database shall contain the Contractor's name, address, telephone numbers, management staff, and other required items. Within 14 calendar days of receipt of QCS software from the Government, deliver Contractor administrative data in electronic format.

1.5.1.2 Subcontractor Information

The database shall contain the name, trade, address, phone numbers, and other required information for all subcontractors. A subcontractor must be listed separately for each trade to be performed. Assign each subcontractor/trade a unique Responsibility Code, provided in QCS. Within 14 calendar days of receipt of QCS software from the Government, deliver subcontractor administrative data in electronic format.

1.5.1.3 Correspondence

Identify all Contractor correspondence to the Government with a serial number. Prefix correspondence initiated by the Contractor's site office with "S". Prefix letters initiated by the Contractor's home (main) office with "H". Letters shall be numbered starting from 0001. (e.g., H-0001 or S-0001). The Government's letters to the Contractor will be prefixed with "C".

1.5.1.4 Equipment

The Contractor's QCS database shall contain a current list of equipment planned for use or being used on the jobsite, including the most recent and planned equipment inspection dates.

1.5.1.5 Management Reporting

QCS includes a number of reports that Contractor management can use to track the status of the project. The value of these reports is reflective of the quality of the data input, and is maintained in the various sections of QCS. Among these reports are: Progress Payment Request worksheet, QA/QC comments, Submittal Register Status, Three-Phase Inspection checklists.

1.5.1.6 Request For Information (RFI)

Exchange all Requests For Information (RFI) using the Built-in RFI generator and tracker in QCS.

1.5.2 Finances

1.5.2.1 Pay Activity Data

The QCS database shall include a list of pay activities that the Contractor shall develop in conjunction with the construction schedule. The sum of all pay activities shall be equal to the total contract amount, including modifications. Group pay activities Contract Line Item Number (CLIN); the sum of the activities shall equal the amount of each CLIN. The total of all CLINs equals the Contract Amount.

1.5.2.2 Payment Requests

Prepare all progress payment requests using QCS. Complete the payment request worksheet, prompt payment certification, and payment invoice in QCS. Update the work completed under the contract, measured as percent or as specific quantities, at least monthly. After the update, generate a payment request report using QCS. Submit the payment request, prompt payment certification, and payment invoice with supporting data using the Government's SFTP repository built into QCS export function. If permitted by the Contracting Officer, e-mail or a CD-ROM may be used. A signed paper copy of the approved payment request is also required, which will govern in the event of discrepancy with the electronic version.

1.5.3 Quality Control (QC)

QCS provides a means to track implementation of the 3-phase QC Control System, prepare daily reports, identify and track deficiencies, document progress of work, and support other Contractor QC requirements. Maintain this data on a daily basis. Entered data will automatically output to the QCS generated daily report. Provide the Government a Contractor Quality

Control (CQC) Plan within the time required in Section 01 45 04.00 10, CONTRACTOR QUALITY CONTROL. Within seven calendar days of Government acceptance, submit a QCS update reflecting the information contained in the accepted CQC Plan: schedule, pay activities, features of work, submittal register, QC requirements, and equipment list.

1.5.3.1 Daily Contractor Quality Control (CQC) Reports.

QCS includes the means to produce the Daily CQC Report. The Contractor may use other formats to record basic QC data. However, the Daily CQC Report generated by QCS shall be the Contractor's official report. Summarize data from any supplemental reports by the Contractor and consolidate onto the QCS-generated Daily CQC Report. Submit daily CQC Reports as required by Section 01 45 04.00 10, CONTRACTOR QUALITY CONTROL. Electronically submit reports to the Government within 24 hours after the date covered by the report. Also provide the Government a signed, printed copy of the daily CQC report.

1.5.3.2 Deficiency Tracking.

The Contractor shall use QCS to track deficiencies. Deficiencies identified by the Contractor will be numerically tracked using QC punch list items. The Contractor shall maintain a current log of its QC punch list items in the QCS database. The Government will log the deficiencies it has identified using its QA punch list items. The Government's QA punch list items will be included in its export file to the Contractor. The Contractor shall regularly update the correction status of both QC and QA punch list items.

1.5.3.3 QC Requirements

Develop and maintain a complete list of QC testing and required structural and life safety special inspections required by the International Code Council (ICC), transferred and installed property, and user training requirements in QCS. Update all data on these QC requirements as work progresses, and promptly provide this information to the Government via QCS.

1.5.3.4 Three-Phase Control Meetings

The Contractor shall maintain scheduled and actual dates and times of preparatory and initial control meetings in QCS.

1.5.3.5 Labor and Equipment Hours

Log labor and equipment exposure hours on a daily basis. This data will be rolled up into a monthly exposure report.

1.5.3.6 Accident/Safety Reporting

The Government will issue safety comments, directions, or guidance whenever safety deficiencies are observed. The Government's safety comments will be included in its export file to the Contractor. Regularly update the correction status of the safety comments. In addition, utilize QCS to advise the Government of any accidents occurring on the jobsite. This brief supplemental entry is not to be considered as a substitute for completion of mandatory reports, e.g., ENG Form 3394 and OSHA Form 300.

1.5.3.7 Features of Work

The Contractor shall include a complete list of the features of work in the QCS database. A feature of work may be associated with multiple pay activities. However, each pay activity (see subparagraph "Pay Activity Data" of paragraph "Finances") will only be linked to a single feature of work.

1.5.3.8 Hazard Analysis

Use QCS to develop a hazard analysis for each feature of work included in the CQC Plan. The hazard analysis shall address any hazards, or potential hazards, that may be associated with the work

1.5.4 Submittal Management

The Contractor is responsible for developing a submittal register (ENG Form 4288) for this contract in accordance with Section 01 33 00 SUBMITTAL PROCEDURES, including completion of all data columns. Dates on which submittals are received and returned by the Government will be included in its export file to the Contractor. The Contractor shall use QCS to track and transmit all submittals. ENG Form 4025, submittal transmittal form, and the submittal register update shall be produced using QCS. QCS and RMS will be used to update, store and exchange submittal registers and transmittals, but will not be used for storage of actual submittals.

1.5.5 Schedule

Develop a construction schedule consisting of pay activities, in accordance with Section 01 32 17.00 20 NETWORK ANALYSIS SCHEDULES (NAS). This schedule shall be input and maintained in the QCS database either manually or by using the Standard Data Exchange Format (SDEF) (see Section 01 32 17.00 20 NETWORK ANALYSIS SCHEDULES (NAS)). The updated schedule data shall be included with each pay request submitted by the Contractor.

1.5.6 Import/Export of Data

QCS includes the ability to export Contractor data to the Government and to import submittal register and other Government-provided data from RMS, and schedule data using SDEF.

1.6 IMPLEMENTATION

Contractor use of QCS as described in the preceding paragraphs is mandatory. Ensure that sufficient resources are available to maintain its QCS database, and to provide the Government with regular database updates. QCS shall be an integral part of the Contractor's management of quality control.

1.7 DATA SUBMISSION VIA CD-ROM

The Government-preferred method for Contractor's submission of QCS data is by using the Government's SFTP repository built into QCS export function. Other data should be submitted using E-mail with file attachment(s). For locations where this is not feasible, the Contracting Officer may permit use of CD-ROM for data transfer. Export data onto CDs using the QCS built-in export function. If used, submit CD-ROMs in accordance with the following:

1.7.1 File Medium

Submit required data on CD-ROM. They shall conform to industry standards used in the United States. All data shall be provided in English.

1.7.2 CD-ROM Labels

Affix a permanent exterior label to each CD-ROM submitted. The label shall indicate in English, the QCS file name, full contract number, contract name, project location, data date, name and telephone number of person responsible for the data.

1.7.3 File Names

The files will be automatically named by the QCS software. The naming convention established by the QCS software shall not be altered in any way by the Contractor.

1.8 MONTHLY COORDINATION MEETING

Update the QCS database each workday. At least daily/weekly or subject to agreement with the Contracting Officer, generate and submit an export file to the Government with schedule update, submittals, QC reports, RFI's and progress payment request. As required in Contract Clause "Payments", at least one week prior to submittal, meet with the Government representative to review the planned progress payment data submission for errors and omissions.

Make all required corrections prior to Government acceptance of the export file and progress payment request. Payment requests accompanied by incomplete or incorrect data submittals will be returned. The Government will not process progress payments until an acceptable QCS export file is received.

1.9 NOTIFICATION OF NONCOMPLIANCE

The Contracting Officer will notify the Contractor of any detected noncompliance with the requirements of this specification. Take immediate corrective action after receipt of such notice. Such notice, when delivered to the Contractor at the work site, will be deemed sufficient for the purpose of notification.

PART 2 PRODUCTS

Not used.

PART 3 EXECUTION

Not used.

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- 3.2 QUALITY CONTROL PLAN
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SECTION 01 45 04.00 10

CONTRACTOR QUALITY CONTROL

PART 1 GENERAL

1.1 REFERENCES

The publications listed below form a part of this specification to the extent referenced. The publications are referred to within the text by the basic designation only.

ASTM INTERNATIONAL (ASTM)

| | |
|-------------|--|
| ASTM D 3740 | (2004a) Minimum Requirements for Agencies Engaged in the Testing and/or Inspection of Soil and Rock as Used in Engineering Design and Construction |
| ASTM E 329 | (2005b) Agencies Engaged in the Testing and/or Inspection of Materials Used in Construction |

1.2 PAYMENT

Separate payment will not be made for providing and maintaining an effective Quality Control program, and all costs associated therewith shall be included in the applicable unit prices or lump-sum prices contained in the Bidding Schedule.

PART 2 PRODUCTS (Not Applicable)

PART 3 EXECUTION

3.1 GENERAL REQUIREMENTS

The Contractor is responsible for quality control and shall establish and maintain an effective quality control system in compliance with the Contract Clause titled "Inspection of Construction." The quality control system shall consist of plans, procedures, and organization necessary to produce an end product which complies with the contract requirements. The system shall cover all construction operations, both onsite and offsite, and shall be keyed to the proposed construction sequence. The site project superintendent will be held responsible for the quality of work on the job and is subject to removal by the Contracting Officer for non-compliance with the quality requirements specified in the contract. The site project superintendent in this context shall be the highest level manager responsible for the overall construction activities at the site, including quality and production. The site project superintendent shall maintain a physical presence at the site at all times, except as otherwise acceptable to the Contracting Officer, and shall be responsible for all construction and construction related activities at the site.

3.2 QUALITY CONTROL PLAN

The Contractor shall furnish for review by the Government, not later than fourteen (14) days after receipt of notice to proceed, the Contractor Quality Control (CQC) Plan proposed to implement the requirements of the Contract Clause titled "Inspection of Construction." The plan shall identify personnel, procedures, control, instructions, tests, records, and forms to be used. The Government will consider an interim plan for the first thirty (30) days of operation. Construction will be permitted to begin only after acceptance of the CQC Plan or acceptance of an interim plan applicable to the particular feature of work to be started. Work outside of the features of work included in an accepted interim plan will not be permitted to begin until acceptance of a CQC Plan or another interim plan containing the additional features of work to be started.

3.2.1 Content of the CQC Plan

The CQC Plan shall include, as a minimum, the following to cover all construction operations, both onsite and offsite, including work by subcontractors, designers of record, consultants, architect/engineers (AE), fabricators, suppliers, and purchasing agents:

- a. A description of the quality control organization, including a chart showing lines of authority and acknowledgment that the CQC staff shall implement the three phase control system (see paragraph 3.6 "Control" for all aspects of the work specified. The staff shall include a CQC System Manager who shall report to the project superintendent.
- b. The name, qualifications (in resume format), duties, responsibilities, and authorities of each person assigned a CQC function.
- c. A copy of the letter to the CQC System Manager signed by an authorized official of the firm which describes the responsibilities and delegates sufficient authorities to adequately perform the functions of the CQC System Manager, including authority to stop work which is not in compliance with the contract. The CQC System Manager shall issue letters of direction to all other various quality control representatives outlining duties, authorities, and responsibilities. Copies of these letters shall also be furnished to the Government.
- d. Procedures for scheduling, reviewing, certifying, and managing submittals, including those of subcontractors, designers of record, consultants, architect engineers (AE), offsite fabricators, suppliers, and purchasing agents. These procedures shall be in accordance with Section 01 33 00 SUBMITTAL PROCEDURES.
- e. Control, verification, and acceptance testing procedures for each specific test to include the test name, specification paragraph requiring test, feature of work to be tested, test frequency, and person responsible for each test. (Laboratory facilities approved by the Contracting Officer shall be used.)
- f. Procedures for tracking preparatory, initial, and follow-up control phases and control, verification, and acceptance tests including documentation.

- g. Procedures for tracking construction deficiencies from identification through acceptable corrective action. These procedures shall establish verification that identified deficiencies have been corrected.
- h. Reporting procedures, including proposed reporting formats.
- i. A list of the definable features of work. A definable feature of work is a task which is separate and distinct from other tasks, has separate control requirements, and may be identified by different trades or disciplines, or it may be work by the same trade in a different environment. Although each section of the specifications may generally be considered as a definable feature of work, there are frequently more than one definable features under a particular section. This list will be agreed upon during the coordination meeting.

3.2.2 Acceptance of Plan

Acceptance of the Contractor's plan is required prior to the start of construction. Acceptance is conditional and will be predicated on satisfactory performance during the construction. The Government reserves the right to require the Contractor to make changes in his CQC Plan and operations including removal of personnel, as necessary, to obtain the quality specified.

3.2.3 Notification of Changes

After acceptance of the CQC Plan, the Contractor shall notify the Contracting Officer in writing of any proposed change. Proposed changes are subject to acceptance by the Contracting Officer.

3.3 COORDINATION MEETING

After the Postaward Conference, before start of construction, and prior to acceptance by the Government of the CQC Plan, the Contractor shall meet with the Contracting Officer or Authorized Representative and discuss the Contractor's quality control system. The CQC Plan shall be submitted for review a minimum of five (5) calendar days prior to the Coordination Meeting. During the meeting, a mutual understanding of the system details shall be developed, including the forms for recording the CQC operations, control activities, testing, administration of the system for both onsite and offsite work, and the interrelationship of Contractor's Management and control with the Government's Quality Assurance. Minutes of the meeting shall be prepared by the Government and signed by both the Contractor and the Contracting Officer. The minutes shall become a part of the contract file. There may be occasions when subsequent conferences will be called by either party to reconfirm mutual understandings and/or address deficiencies in the CQC system or procedures which may require corrective action by the Contractor.

3.4 QUALITY CONTROL ORGANIZATION

3.4.1 Personnel Requirements

The requirements for the CQC organization are a CQC System Manager, and sufficient number of additional qualified personnel to ensure safety and contract compliance. The Safety and Health Manager shall receive direction and authority from the CQC System Manager and shall serve as a member of

the CQC staff. Personnel identified in the technical provisions as requiring specialized skills to assure the required work is being performed properly will also be included as part of the CQC organization. The Contractor's CQC staff shall maintain a presence at the site at all times during progress of the work and have complete authority and responsibility to take any action necessary to ensure contract compliance. The CQC staff shall be subject to acceptance by the Contracting Officer. The Contractor shall provide adequate office space, filing systems and other resources as necessary to maintain an effective and fully functional CQC organization. Complete records of all letters, material submittals, shop drawing submittals, schedules and all other project documentation shall be promptly furnished to the CQC organization by the Contractor. The CQC organization shall be responsible to maintain these documents and records at the site at all times, except as otherwise acceptable to the Contracting Officer.

3.4.2 CQC System Manager

The Contractor shall identify as CQC System Manager an individual within the onsite work organization who shall be responsible for overall management of CQC and have the authority to act in all CQC matters for the Contractor. The CQC System Manager shall be a construction person with a minimum of five (5) years in related work. This CQC System Manager shall be on the site at all times during construction and shall be employed by the prime Contractor. The CQC System Manager shall be assigned no other duties. An alternate for the CQC System Manager shall be identified in the plan to serve in the event of the System Manager's absence. The requirements for the alternate shall be the same as for the designated CQC System Manager.

3.4.3 CQC Personnel

In addition to CQC personnel specified elsewhere in the contract, the Contractor shall provide as part of the CQC organization specialized personnel to assist the CQC System Manager for the following areas: civil, mechanical, electrical, structural, design quality control and submittals. These individuals may be employees of the prime or subcontractor; be responsible to the CQC System Manager; be physically present at the construction site during work on their areas of responsibility; have the necessary education and/or experience in accordance with the experience matrix listed herein. These individuals may perform other duties but must be allowed sufficient time to perform their assigned quality control duties as described in the Quality Control Plan.

Experience Matrix

| Area | Qualifications |
|---------------|---|
| a. Civil | Graduate Civil Engineer with 5+ years experience in the type of work being performed on this project |
| b. Mechanical | Graduate Mechanical Engineer with 5+ years experience in the type of work being performed on this project |

Experience Matrix

| | Area | Qualifications |
|----|--------------------------------|---|
| c. | Electrical | Graduate Electrical Engineer with 5+ years experience in the type of work being performed on this project |
| d. | Structural | Graduate Structural Engineer with 5+ years experience in the type of work being performed on this project and blast analysis design |
| e. | Submittals | Submittal Clerk with 1+ years experience |
| f. | Design Quality Control Manager | Registered Architect or Professional Engineer with 5+ years experience in the work being performed on this project |

3.4.4 Additional Requirement

In addition to the above experience and/or education requirements the CQC System Manager shall have completed the five (5) day course entitled "Construction Quality Management For Contractors". This course is periodically offered at the Construction Trades Training Cener (CTTC) in Jalalabad. For enrollment, contact the following:

Mhd. Haris
mharis@afghanreconstruction.org
0700 08 0602

or

Pervaiz
adpzmuj@yahoo.com
0700 61 3133

Classes are currently offered twice per month but for current schedules, the Contractor is advised to contact CTTC for enrollment.

3.4.5 Organizational Changes

The Contractor shall maintain the CQC staff at full strength at all times. When it is necessary to make changes to the CQC staff, the Contractor shall revise the CQC Plan to reflect the changes and submit the changes to the Contracting Officer for acceptance.

3.5 SUBMITTALS AND DELIVERABLES

Submittals, if needed, shall be made as specified in Section 01 33 00 SUBMITTAL PROCEDURES. The CQC organization shall be responsible for certifying that all submittals and deliverables are in compliance with the

contract requirements. When Section 23 08 00.00 10 COMMISSIONING OF HVAC SYSTEMS are included in the contract, the submittals required by those sections shall be coordinated with Section 01 33 00 SUBMITTAL PROCEDURES to ensure adequate time is allowed for each type of submittal required.

3.6 CONTROL

Contractor Quality Control is the means by which the Contractor ensures that the construction, to include that of subcontractors and suppliers, complies with the requirements of the contract. At least three phases of control shall be conducted by the CQC System Manager for each definable feature of the construction work as follows:

3.6.1 Preparatory Phase

This phase shall be performed prior to beginning work on each definable feature of work, after all required plans/documents/materials are approved/accepted, and after copies are at the work site. This phase shall include:

- a. A review of each paragraph of applicable specifications, reference codes, and standards. A copy of those sections of referenced codes and standards applicable to that portion of the work to be accomplished in the field shall be made available by the Contractor at the preparatory inspection. These copies shall be maintained in the field and available for use by Government personnel until final acceptance of the work.
- b. A review of the contract drawings.
- c. A check to assure that all materials and/or equipment have been tested, submitted, and approved.
- d. Review of provisions that have been made to provide required control inspection and testing.
- e. Examination of the work area to assure that all required preliminary work has been completed and is in compliance with the contract.
- f. A physical examination of required materials, equipment, and sample work to assure that they are on hand, conform to approved shop drawings or submitted data, and are properly stored.
- g. A review of the appropriate activity hazard analysis to assure safety requirements are met.
- h. Discussion of procedures for controlling quality of the work including repetitive deficiencies. Document construction tolerances and workmanship standards for that feature of work.
- i. A check to ensure that the portion of the plan for the work to be performed has been accepted by the Contracting Officer.
- j. Discussion of the initial control phase.
- k. The Government shall be notified at least 72 hours in advance of beginning the preparatory control phase. This phase shall include a meeting conducted by the CQC System Manager and attended by the

superintendent, other CQC personnel (as applicable), and the foreman responsible for the definable feature. The results of the preparatory phase actions shall be documented by separate minutes prepared by the CQC System Manager and attached to the daily CQC report. The Contractor shall instruct applicable workers as to the acceptable level of workmanship required in order to meet contract specifications.

3.6.2 Initial Phase

This phase shall be accomplished at the beginning of a definable feature of work. The following shall be accomplished:

- a. A check of work to ensure that it is in full compliance with contract requirements. Review minutes of the preparatory meeting.
- b. Verify adequacy of controls to ensure full contract compliance. Verify required control inspection and testing.
- c. Establish level of workmanship and verify that it meets minimum acceptable workmanship standards. Compare with required sample panels as appropriate.
- d. Resolve all differences.
- e. Check safety to include compliance with and upgrading of the safety plan and activity hazard analysis. Review the activity analysis with each worker.
- f. The Government shall be notified at least 72 hours in advance of beginning the initial phase. Separate minutes of this phase shall be prepared by the CQC System Manager and attached to the daily CQC report. Exact location of initial phase shall be indicated for future reference and comparison with follow-up phases.
- g. The initial phase should be repeated for each new crew to work onsite, or any time acceptable specified quality standards are not being met.

3.6.3 Follow-up Phase

Daily checks shall be performed to assure control activities, including control testing, are providing continued compliance with contract requirements, until completion of the particular feature of work. The checks shall be made a matter of record in the CQC documentation. Final follow-up checks shall be conducted and all deficiencies corrected prior to the start of additional features of work which may be affected by the deficient work. The Contractor shall not build upon nor conceal non-conforming work.

3.6.4 Additional Preparatory and Initial Phases

Additional preparatory and initial phases shall be conducted on the same definable features of work if: the quality of on-going work is unacceptable; if there are changes in the applicable CQC staff, onsite production supervision or work crew; if work on a definable feature is resumed after a substantial period of inactivity; or if other problems develop.

3.7 TESTS

3.7.1 Testing Procedure

The Contractor shall perform specified or required tests to verify that control measures are adequate to provide a product which conforms to contract requirements. Upon request, the Contractor shall furnish to the Government duplicate samples of test specimens for possible testing by the Government. Testing includes operation and/or acceptance tests when specified. The Contractor shall procure the services of a Corps of Engineers approved testing laboratory or establish an approved testing laboratory at the project site. The Contractor shall perform the following activities and record and provide the following data:

- a. Verify that testing procedures comply with contract requirements.
- b. Verify that facilities and testing equipment are available and comply with testing standards.
- c. Check test instrument calibration data against certified standards.
- d. Verify that recording forms and test identification control number system, including all of the test documentation requirements, have been prepared.
- e. Results of all tests taken, both passing and failing tests, shall be recorded on the CQC report for the date taken. Specification paragraph reference, location where tests were taken, and the sequential control number identifying the test shall be given. If approved by the Contracting Officer, actual test reports may be submitted later with a reference to the test number and date taken. An information copy of tests performed by an offsite or commercial test facility shall be provided directly to the Contracting Officer. Failure to submit timely test reports as stated may result in nonpayment for related work performed and disapproval of the test facility for this contract.

3.7.2 Testing Laboratories

3.7.2.1 Capability Check

The Government reserves the right to check laboratory equipment in the proposed laboratory for compliance with the standards set forth in the contract specifications and to check the laboratory technician's testing procedures and techniques. Laboratories utilized for testing soils, concrete, asphalt, and steel shall meet criteria detailed in [ASTM D 3740](#) and [ASTM E 329](#).

3.7.2.2 Capability Recheck

If the selected laboratory fails the capability check, the Contractor will be assessed a charge of \$3,000.00 to reimburse the Government for each succeeding recheck of the laboratory or the checking of a subsequently selected laboratory. Such costs will be deducted from the contract amount due the Contractor.

3.7.3 Onsite Laboratory

The Government reserves the right to utilize the Contractor's control

testing laboratory and equipment to make assurance tests, and to check the Contractor's testing procedures, techniques, and test results at no additional cost to the Government.

3.7.4 Furnishing or Transportation of Samples for Testing

Costs incidental to the transportation of samples or materials shall be borne by the Contractor.

Coordination for each specific test, exact delivery location, and dates will be made through the Area Office.

3.8 COMPLETION INSPECTION

3.8.1 Punch-Out Inspection

Near the end of the work, or any increment of the work established by a time stated in the SPECIAL CONTRACT REQUIREMENTS Contract Clause 52.211-10, "Commencement, Prosecution, and Completion of Work", or by the specifications, the CQC Manager shall conduct an inspection of the work. A punch list of items which do not conform to the approved drawings and specifications shall be prepared and included in the CQC documentation, as required by paragraph DOCUMENTATION. The list of deficiencies shall include the estimated date by which the deficiencies will be corrected. The CQC System Manager or staff shall make a second inspection to ascertain that all deficiencies have been corrected. Once this is accomplished, the Contractor shall notify the Government that the facility is ready for the Government Pre-Final inspection.

3.8.2 Pre-Final Inspection

The Government will perform the pre-final inspection to verify that the facility is complete and ready to be occupied. A Government Pre-Final Punch List may be developed as a result of this inspection. The Contractor's CQC System Manager shall ensure that all items on this list have been corrected before notifying the Government, so that a Final inspection with the customer can be scheduled. Any items noted on the Pre-Final inspection shall be corrected in a timely manner. These inspections and any deficiency corrections required by this paragraph shall be accomplished within the time slated for completion of the entire work or any particular increment of the work if the project is divided into increments by separate completion dates.

3.8.3 Final Acceptance Inspection

The Contractor's Quality Control Inspection personnel, plus the superintendent or other primary management person, and the Contracting Officer's Representative shall be in attendance at the final acceptance inspection. Additional Government personnel including, but not limited to, those from Base/Post Civil Facility Engineer user groups, and major commands may also be in attendance. The final acceptance inspection will be formally scheduled by the Contracting Officer based upon results of the Pre-Final inspection. Notice shall be given to the Contracting Officer at least 14 days prior to the final acceptance inspection and shall include the Contractor's assurance that all specific items previously identified to the Contractor as being unacceptable, along with all remaining work performed under the contract, will be complete and acceptable by the date scheduled for the final acceptance inspection. Failure of the Contractor to have all contract work acceptably complete for this inspection will be

cause for the Contracting Officer to bill the Contractor for the Government's additional inspection cost in accordance with the contract clause titled "Inspection of Construction".

3.9 DOCUMENTATION

The Contractor shall maintain current records providing factual evidence that required quality control activities and/or tests have been performed. These records shall include the work of subcontractors and suppliers and shall be on an acceptable form that includes, as a minimum, the following information:

- a. Contractor/subcontractor and their area of responsibility.
- b. Operating plant/equipment with hours worked, idle, or down for repair.
- c. Work performed each day, giving location, description, and by whom. When Network Analysis (NAS) is used, identify each phase of work performed each day by NAS activity number.
- d. Test and/or control activities performed with results and references to specifications/drawings requirements. The control phase shall be identified (Preparatory, Initial, Follow-up). List of deficiencies noted, along with corrective action.
- e. Quantity of materials received at the site with statement as to acceptability, storage, and reference to specifications/drawings requirements.
- f. Submittals and deliverables reviewed, with contract reference, by whom, and action taken.
- g. Offsite surveillance activities, including actions taken.
- h. Job safety evaluations stating what was checked, results, and instructions or corrective actions.
- i. Instructions given/received and conflicts in plans and/or specifications.
- j. Contractor's verification statement.

These records shall indicate a description of trades working on the project; the number of personnel working; weather conditions encountered; and any delays encountered. These records shall cover both conforming and deficient features and shall include a statement that equipment and materials incorporated in the work and workmanship comply with the contract. The original and one copy of these records in report form shall be furnished to the Government daily within 24 hours after the date covered by the report, except that reports need not be submitted for days on which no work is performed. As a minimum, one report shall be prepared and submitted for every 7 days of no work and on the last day of a no work period. All calendar days shall be accounted for throughout the life of the contract. The first report following a day of no work shall be for that day only. Reports shall be signed and dated by the CQC System Manager. The report from the CQC System Manager shall include copies of test reports and copies of reports prepared by all subordinate quality control personnel.

3.10 NOTIFICATION OF NONCOMPLIANCE

The Contracting Officer will notify the Contractor of any detected noncompliance with the foregoing requirements. The Contractor shall take immediate corrective action after receipt of such notice. Such notice, when delivered to the Contractor at the work site, shall be deemed sufficient for the purpose of notification. If the Contractor fails or refuses to comply promptly, the Contracting Officer may issue an order stopping all or part of the work until satisfactory corrective action has been taken. No part of the time lost due to such stop orders shall be made the subject of claim for extension of time or for excess costs or damages by the Contractor.

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RECYCLED / RECOVERED MATERIALS

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SECTION 01 62 35

RECYCLED / RECOVERED MATERIALS

PART 1 GENERAL

1.1 REFERENCES

The publications listed below form a part of this specification to the extent referenced. The publications are referred to within the text by the basic designation only.

U.S. NATIONAL ARCHIVES AND RECORDS ADMINISTRATION (NARA)

40 CFR 247

Comprehensive Procurement Guideline for
Products Containing Recovered Materials

1.2 OBJECTIVES

Government procurement policy is to acquire, in a cost effective manner, items containing the highest percentage of recycled and recovered materials practicable consistent with maintaining a satisfactory level of competition without adversely affecting performance requirements or exposing suppliers' employees to undue hazards from the recovered materials. The Environmental Protection Agency (EPA) has designated certain items which must contain a specified percent range of recovered or recycled materials. EPA designated products specified in this contract comply with the stated policy and with the EPA guidelines. The Contractor shall make all reasonable efforts to use recycled and recovered materials in providing the EPA designated products and in otherwise utilizing recycled and recovered materials in the execution of the work.

1.3 EPA DESIGNATED ITEMS INCORPORATED IN THE WORK

Various sections of the specifications contain requirements for materials that have been designated by EPA as being products which are or can be made with recovered or recycled materials. These items, when incorporated into the work under this contract, shall contain at least the specified percentage of recycled or recovered materials unless adequate justification (non-availability) for non-use is provided. When a designated item is specified as an option to a non-designated item, the designated item requirements apply only if the designated item is used in the work.

1.4 EPA PROPOSED ITEMS INCORPORATED IN THE WORK

Products other than those designated by EPA are still being researched and are being considered for future Comprehensive Procurement Guideline (CPG) designation. It is recommended that these items, when incorporated in the work under this contract, contain the highest practicable percentage of recycled or recovered materials, provided specified requirements are also met.

1.5 EPA LISTED ITEMS USED IN CONDUCT OF THE WORK BUT NOT INCORPORATED IN THE WORK

There are many products listed in 40 CFR 247 which have been designated or proposed by EPA to include recycled or recovered materials that may be used by the Contractor in performing the work but will not be incorporated into the work. These products include office products, temporary traffic control products, and pallets. It is recommended that these non-construction products, when used in the conduct of the work, contain the highest practicable percentage of recycled or recovered materials and that these products be recycled when no longer needed.

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TECHNICAL REQUIREMENTS

PART 1 GENERAL

1.1 Contractor's Design and Construction

The Contractor's design and construction must comply with technical requirements contained herein. The Contractor shall provide design and construction using the best blend of cost, construction efficiency, system durability, ease of maintenance and environmental compatibility.

1.1.1 Design and Product Requirements

These design and product requirements are minimum requisites. Variations shall be submitted in accordance with Section 01 33 00 12 10 entitled SUBMITTAL PROCEDURES FOR DESIGN-BUILD PROJECT. All variations must be approved by the Contracting Officer. Unless otherwise specified, all of the materials and equipment to be installed in this project shall comply with a recognized standard for the intended use. The Unified Master Reference List for ASTM, ASME, etc., located at <http://www.wbdg.org/ccb/DOD/UMRL/UMRL.pdf> identifies the titles and approval dates.

1.1.2 Asbestos Containing Materials

Asbestos containing material (ACM) will not be used in the design and construction of this project. If no other material is available which will perform the required function or where the use of other material would be cost prohibitive, a waiver for the use of asbestos containing materials must be obtained from the Contracting Officer.

1.1.3 Limitation of Working Space

The Contractor shall, except where required for service connections or other special reasons confine his operations strictly within the boundaries of the site. Workmen will not be permitted to trespass on adjoining property. Any operations or use of space outside the boundaries of the site shall be by arrangement with all interested parties. It must be emphasized that the Contractor must take all practical steps to prevent his workmen from entering adjoining property and in the event of trespass occurring the Contractor will be held entirely responsible.

1.1.4 Subcontractors

Compliance with the provisions of this section by subcontractors will be the responsibility of the Contractor.

1.1.5 Temporary Structures

The Contractor shall erect suitable temporary fences, lighting, and necessary structures to safeguard the site, materials and plant against damage or theft and for the protection of the general public and shall adequately maintain the same throughout the course of the contract. All utilities required to support temporary structures during the contract period of performance shall be provided by the Contractor.

1.2 Specifications

All specifications except for those included in this RFP shall be developed by the Contractor in accordance with this specification and Section 01 33 00 12 10 SUBMITTAL PROCEDURES FOR DESIGN-BUILD PROJECT. The specifications for Civil Site Development shall be Unified Facilities Guide Specifications (UFGS) edited by the Design-Build Contractor. The specifications are available at http://www.wbdg.org/ccb/browse_org.php?o=70. The specifications shall be edited to provide specific proprietary materials, equipment, systems, and patented processes by trade name, make, or catalog number as applicable where ever it is feasible.

1.3 Construction Phasing Plan and Operational Safety On The Airfield During Construction

The Contractor shall prepare a construction phasing plan meeting all the RFP requirements and additional requirements of Section B14-3 of Section 14 in UFC 3-260-01. The Contractor Phasing Plan shall be included in the first design submittal.

The construction schedule developed by the Contractor shall include a minimum of 48 hours between phases to allow the Air Base to adjust traffic operations.

The contractor shall follow all of the requirements and guidelines identified in Section 14 in UFC 3-260-01.

1.3.1 Drawings

The Contractor-developed drawings shall show all aspects of the construction phasing on the sheets PHASING PLANS AND DETAILS, which shall be included with the first design submittal.

1.4 NOTICE OF CONSTRUCTION

FAA Form 7460-1, NOTICE OF PROPOSED CONSTRUCTION OR ALTERATION (<http://www.faa.gov/arp/ace/faaforms.htm>) must be submitted to FAA at least 30 days prior to the start of construction. Form 7460-1 will be submitted by the Air Base Manager, but the Contractor must provide all information and prepare the form for submission.

1.5 NOTICE TO AIRMEN (NOTAM)

1.5.1 Issuance of NOTAMS

Only Air Base Management can close, open, or restrict the use of any part of an airfield facility. Any conditions that would prevent, restrict, or present a hazard to arriving or departing aircraft requires public notification. Public notification is accomplished by the Notice to Airmen (NOTAM) system. NOTAMS are submitted to the FAA by the Air Base Management. It is the responsibility of the Contractor to coordinate with the Contracting Officer for the issuance of NOTAMS during construction. The Contractor shall provide the necessary information at least 72 hours before occurrence of the event that requires the NOTAM.

1.6 SECURITY AND OPERATIONAL SAFETY

1.6.1 General

The Contractor shall prepare a security/safety program that includes the preparation and monitoring of site security and operational safety.

1.6.2 Security

The Contractor shall prepare a plan for site security during construction. The plan shall be submitted with the first design submittal. The plan shall include detailed procedures for controlling access to the project site through the use of gate guards, ID badge, entry access lists and/or other measures as required by the Air Base. The Contractor shall become acquainted with all the required security measures of the Air Base during the proposal phase.

1.6.3 Operational Safety

1.6.3.1 Design Phase Safety

The Contractor shall submit airfield access requirements of design personnel at the Pre-Design Conference. The safety requirements and procedures for design personnel access to the project site will be established at the Pre-Design Conference. It is the Contractor's responsibility to ensure that design personnel are familiar with and follow airfield safety procedures.

1.6.3.2 Operational Safety Plan

The Contractor shall prepare an operational safety plan that addresses the requirements and safety considerations of Sections B14-5 and B14-6 in Section 14 of UFC 3-260-01. The plan shall address operational safety during each project phase and subphase identified in the Phasing Plan. The operational safety plan shall be submitted with the first design submittal.

2. CIVIL SITE DEVELOPMENT

2.1 General

The civil designs shall be based on Unified Facilities Criteria/United States Air Force/Army Technical Manuals or other design standards from internationally recognized organizations in business for a minimum of ten years. All required documents, including drawings, specifications, and design analysis, shall be prepared in accordance with this section and Section 01 33 00 12 10 SUBMITTAL PROCEDURES FOR DESIGN-BUILD PROJECT.

The design analysis shall include detailed calculations and any additional information required, and the information listed below, when applicable. The Contractor shall review the details and make adjustments, if necessary, before applying them to the project. The civil site development includes the following items of work:

- a. Topographic Survey
- b. Vehicular Pavement Design and Construction
- c. Grading and Drainage Design and Construction
- d. Utilities

2.1.1 References:

The designs and construction shall be in accordance with the design manuals shown in Table 1 REFERENCES unless otherwise shown on the drawings or stated in the specifications.

TABLE 1 REFERENCES

The publications listed below form a part of this specification to the extent referenced. The publications are referred to in the text by basic designation only.

Transatlantic Program Center Design Instructions Manual

Pavement-Transportation Computer Assisted Structural Engineering (PCASE) Program

Manual on uniform Traffic Control Devices for Streets and Highways (MUTCD), 2003 Edition, Revision 2 dated December 2007

UNIFIED FACILITIES CRITERIA (UFC)

| | |
|----------------|---|
| UFC 3-210-06A | Site Planning and Design, 16 Jan 04 |
| UFC 3-230-03A | Water Supply, 16 Jan 04 |
| UFC 3-230-04A | Water Distribution, 16 Jan 04 |
| UFC 3-230-06A | Subsurface Drainage, 16 Jan 04 |
| UFC 3-230-09A | Water Supply: Water Storage, 04 |
| UFC 3-230-15FA | Surface Drainage Facilities for Airfields and Heliports, 16 Jan 04 |
| UFC 3-230-17FA | Drainage in Areas Other than Airfields, 16 Jan 04 |
| UFC 3-240-07FA | Sanitary and Industrial Wastewater Collection: Gravity Sewers and Appurtenances, Jan 04 |
| UFC 3-250-01FA | Pavement Design for Roads, Streets, Walks, and Open Storage Areas, 16 Jan 04 |
| UFC 3-250-03 | Standard Practice Manual for Flexible Pavements, May, 01 |
| UFC 30250-09FA | Aggregate Surfaced Roads and Airfields Areas, 16 Jan 04 |
| UFC 3-250-18FA | General Provisions and Geometric Design for Roads, Streets, Walks and Open Storage Areas 6 Jan 06 |
| UFC 3-420-01 | Plumbing Systems, Including change 7, April 30, 2009, Oct 04 |
| UFC 3-600-01 | Fire Protection Engineering for Facilities, Sep 06 |

ARMY ENGINEERING MANUAL (EM)

EM 385-1-1 Safety - Safety and Health Requirements 15 Sep 08

INTERNATIONAL BUILDING CODE

International Building Code (2003)

AMERICAN WATER WORKS ASSOCIATION (AWWA)

| | |
|-----------|---|
| AWWA C651 | Standard for Disinfecting Water Main, 05; Errata 05 |
| AWWA D103 | Factory-Coated Bolted Steel Tanks for Water Storage, 97 |

2.2 Existing Conditions

The Contractor shall perform topographic survey.

2.2.1 Topographic Survey

The Contractor shall perform a topographic survey and establish all necessary permanent bench marks for vertical and horizontal controls. The contractor shall perform all necessary topographic surveying/mapping as required for the design of site, grading, utility systems and drainage systems. The

topographic survey shall be performed in accordance with requirements described in the attached Appendix A. The topographic survey shall be submitted in accordance with Section 01 33 00 12.10 SUBMITTAL PROCEDURES FOR DESIGN-BUILD PROJECT.

2.3 Pavements

2.3.1 Site Plans

The Contractor shall ensure the facilities, roads, and pavements are sited in compliance with attached drawings and additional requirements stated herein. Deviations must be submitted for approval. The site plan prepared by the Contractor based on Government drawings shall show geometric design of the site, including applicable dimensions of facilities, set back lines, buildings, roads, etc.

2.3.2 Vehicular Pavement

The vehicle pavement shall be in accordance with UFC 3-250-01FA and the PCASE program and the geotechnical investigation; however, the minimum thickness shall be those listed in TABLE 2. The geometric layout and grading shall comply with the layout shown on the drawings, UFC 3-210-06A and UFC 3-250-18FA. Layout may be modified for site specific requirements. Revisions must be reviewed and approved prior to construction.

2.3.2.1 Access Road

The access roads and driveways, not otherwise described below, shall be designed for a class E Street, Cat. III, using a design index of 3 with the PCASE program; however, the minimum thickness shall be those listed in TABLE 2.

TABLE 2
MINIMUM PAVEMENT THICKNESSES

| | |
|-------------|---|
| ACCESS ROAD | 50 mm Hot-Mix Asphalt (HMA) |
| | 300 mm Graded Crushed Aggregate Base Course (CBR 100%) |
| | 300 mm (min.) Satisfactory Material Compacted to 95% of max. density. |

The Contractor shall use the results of the Geotech Investigation to determine the Contractor's design thicknesses. The greater of the Contractor's design or pavement section listed in Table 2 shall be used.

Pavement design shall consider locally available aggregates, and weather conditions. Contractor shall provide gravel specifications to meet project requirements.

2.3.2.2 Gravel Road and Parking

The gravel road shall be designed for a class E Street, Cat. III, using a design index of 3 in accordance with UFC 3-250-09FA.

2.4 Grading and Drainage

2.4.1 Grading and Drainage

The Contractor shall use the topographic survey for designing the grading and drainage system. The Contractor shall relocate existing drainage system or

modify it as required, and provide all necessary site grading and necessary drainage structures to ensure adequate drainage, so that no water shall pond within 15 meters of any paved area or building resulting from a 10-year recurrence storm.

Drainage of the area should be compatible with the existing terrain and existing drainage structures. The drainage design shall include any storm water flow that enters the project site from contiguous areas.

Finish grading for the vehicular pavements shall be designed to meet the surface criteria in UFC 3-260-01 and UFC 3-250-18FA.

Provide positive drainage and ensure all runoff will not impact adjacent existing or planned facilities.

Roads shall be graded for proper drainage.

Grading plans shall show existing contours and new contours to indicate new grading, finished floor and pavement elevations, drainage swales, etc.

In areas where the subgrade is of clay materials, the paved areas shall not be prepared in a manner which would permit water to accumulate in either the subbase or base material.

Drainage and storm water collection system shall conform with UFC 3-230-06A, UFC 3-230-15FA, UFC 3-230-16FA, UFC 3-230-17FA, and UFC 3-250-18FA as applicable.

Finish floor elevation at new facilities shall be at least 150 millimeters above finish grade. Grade around facilities shall slope away from the building at a 5% slope for about 3 meters in accordance with UFC 3-210-06a, Site Planning and Design. Maximum slope at other areas shall be based on surface materials and type of vegetation. Fill materials shall be composed of satisfactory soils or aggregates defined in ASTM D 2487 as GW, GP, GM, SP, SM, SW, CL-ML.

2.5 Utility Infrastructure

2.5.1 General

The Contractor shall design, construct, test, and disinfect the domestic water storage tank, pumps, hydropneumatic tank, fire hydrants, and distributions systems. The Contractor shall design, construct, and test the sewage holding tanks, manholes, and collection system.

All utility systems shall be designed for the seismic requirements as defined by the International Building Code. The Contractor shall edit the Unified Federal Guide Specifications for all utility systems, which contain the required testing. Pipe depth, bedding, and cover shall be designed as required by the UFC design criteria for the pipe size, pipe material, and vehicular loading. Utilities placed in traffic areas shall be designed for an AASHTO H20 vehicle loading. Buried warning and identification tape shall be placed above the utility 0.6 meters below finished grade. Trench backfill shall be compacted to at least 95% maximum density.

2.5.1.1 Protection of Utilities

Prior to construction, the Contractor shall notify the Contracting Officer of the Contractor's plans for utility protection. In the event of an unexpected

utility interference during construction, the Contractor shall immediately notify the Contracting Officer.

2.5.1.2 Interruption of Utilities

The Contractor shall notify the Contracting Office and the appropriate Air Base personnel immediately upon the disturbance of any existing utility during construction. Any utility disturbed by the Contractor's operations shall be restored immediately at no cost to the Government. Any interruption of a utility service, including airfield electrical systems, that is necessary for construction must be coordinated and receive prior approval.

2.5.2 Water System

Contractor shall design, furnish, install, disinfect and test both the domestic water system and the fire water distribution system and fire hydrants.

2.5.2.1 Water Tank

The tank shall be sited in a location that is convenient for filling by a truck parked on the road and have a connection point from a future base water connection.

The design, fabrication, and erection of the tanks shall be in accordance with the applicable requirements of AWWA D103 except as modified herein. The tank shall be equipped with a vent with a stainless steel insect screen. The vent shall be a pressure-vacuum-screened vent or a separate pressure-vacuum relief mechanism shall be provided that will operate in the event that the screens frost over or become clogged. The screens or relief mechanism shall not be damaged by the occurrence and shall return automatically to operating position after the blockage is cleared. The free area of the vent shall be sized 50 percent in excess of both pump in rate and pump out rate. The tank shall be provided with drain valve, two manways (with lockable covers), level indicator, variable control low water alarm (both audible and visual), and an overflow (with flapper valve, erosion protection). The overflow outlet shall be 600 mm above finished grade. A vortex inhibitor shall be provided on all suction lines. A thermostat controlled immersion heater shall be installed in the water tank. An exterior ladder with a safety cage, roof ladder handrails, and other safety devices shall be provided. An interior stainless steel ladder shall be provided. All ladders shall be equipped with nonslip tread. Connections shall include a method for truck filling. The design of the pipes shall consider the effects of frost. The finish grade around the tank shall drain away from the tank. The contractor shall submit the seismic design of the tanks which shall consider the sloshing, uplift, etc. and foundation designs which consider snow loads, wind load, and water load.

2.5.2.2 All pipes 100 mm or larger and all exposed pipes shall be ductile iron with a cement lining. All pipes smaller than 100 mm and not exposed shall be Polyvinyl Chloride (PVC) Plastic Piping. Pipes and valves shall be suitably anchored with supports suited for the anticipated loads.

2.5.2.3 The system shall be disinfected in accordance with AWWA C651, disinfecting Water Mains AND AWWA D103. The system shall be pressure tested in accordance with manufacturer's recommendation.

2.5.2.4 Design

The design of the water systems shall be adequately sized to provide flow and

discharge based on a fixture unit basis. The design drawings shall show all utility lines, line sizes, valves, pumps, disinfection systems, water storage tanks, and applicable details associated with water system designs. Specifications covering water lines, valves, pumps, controls and, etc shall be submitted as part of the design.

2.5.2.5 Fire Water Mains

Fire hydrants shall be dry barrel type with two (2) 65 mm (2-1/2 inch) hose outlets and one (1) 115 mm (4-1/2 inch) suction connection. Threading shall be in accordance with National Standard Fire Hose Thread. The hydrant label shall be of rust-proof material, durable and not requiring paint maintenance. Refer to Fire Protection section for fire hydrant spacing/design and fire main requirement.

2.5.3 Sanitary Sewer System

Contractor shall design, furnish, install, and test the sewage holding tank and collection system, using UFC 3-240-07FA. The holding tanks shall be sited a maximum of 10 meters from a paved area to facilitate the truck access.

2.5.3.1 Design

The design of the sanitary systems shall be adequately sized based on a fixture unit basis. The design drawings shall show all utility lines, line sizes, manholes, sewage holding tanks and applicable details associated with sanitary system designs. The holding tanks shall be provided with a remote level indicator and an audible high water level alarm.

3. GEOTECHNICAL

3.1 Geotechnical Investigation

Site specific geotechnical information for this project is not available; however, a bearing capacity of 0.75 kg / cm² was used to design the foundations. The contractor shall conduct a geotechnical investigation to verify this value and to determine if the foundations as designed are adequate for the current site. If the design is not adequate, the Contractor shall immediately contract the Contracting Officer in writing. The technical parameters necessary to design and construct the foundations, pavements, and other geotechnically related items shall be the contractor's responsibility. The geotechnical items for this project consist of two-2,341 square meter two story barracks buildings, a pump building, a 130 kL fire water tank, 7.5 kL potable water tank, a 52 kL grey water storage tank, a 78 kL black water tank, asphalt pavements and aggregate surfaced pavements and parking lot. 2 additional barracks with associated utilities will be packaged as options. See Civil and Architectural drawings for more details.

3.2 Soil Exploration

Soil explorations shall be to adequate depths (a minimum of 3 meters for test pits and 10 meters for test borings) to determine the subsurface conditions, and shall be spaced to maximize coverage. All explorations shall be backfilled to grade upon completion of field work. At a minimum, 2 boreholes shall be drilled within the footprint of the each barrack, 1 boring within the footprint of each water storage tank and one test pit within the footprint of the pump building. As a minimum for the roadways, the contractor shall excavate 2 test pits for every 100 linear meters of pavement.

3.3 Geotechnical Report

The contractor shall produce a detailed geotechnical report containing the field exploration and testing results, laboratory results, evaluations, recommendations, calculations and descriptive supporting text. Information in the report shall include, but not be limited to: local geological survey maps, applicable agronomy maps, hydrological information, existing geotechnical (e.g., surface and subsurface) conditions, location of subsurface exploration logs, exploration point, foundations selected, bearing capacity, pavement design criteria (e.g., CBR values, K values), ground water levels, and construction materials (e.g., concrete cement, asphalt and aggregates). Two copies of the geotechnical and report shall be submitted to the contracting officer.

3.4 Foundations

The foundations as designed are a combination of a strip and a mat foundation. Foundations shall be placed at a depth of 1.05 meters unless the geotechnical investigation reveals the depth as inadequate. See structural section and drawings for more details.

3.5 Compaction Requirements

The underlying sub-grade material (beneath foundations) shall be compacted down to a minimum depth of 150 mm. Compact soil to a minimum 95% of the Modified Proctor Density (ASTM D 1557) and within -1% to +2% of optimum moisture content. Compact the aggregate base course for roads to 100% of the Modified Proctor Density and within -1% to +2% of optimum moisture content.

3.6 Specifications

The Contractor shall use the Unified Facility Guideline Specifications (UFGS) or UFGS equivalent specifications. The UFGS's can be found at:

http://www.wbdg.org/ccb/browse_org.php?o=70

The Contractor shall provide earthwork, aggregate surface course and aggregate base course specifications as well as any other geotechnically related specifications.

3.7 Geotechnical Qualifications

All geotechnical design parameters shall be developed by a geotechnical engineer or geotechnical firm responsible to the Contractor. The geotechnical engineer or geotechnical firm shall be qualified by: education in geotechnical engineering; professional registration; a minimum of ten (10) years of experience in geotechnical engineering design.

4. ATTACHMENT

Appendix A - Topographic Survey Scope of Work

-- End of Section --